

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85692**

This is to certify that: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-2175B	WR/DECREED	2/23/1960	1.250 cfs	273.0 af	N/A	78.0	GROUND WATER
22-7032	WR/DECREED	3/13/1970	1.730 cfs	315.0 af	N/A	89.8	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
22-2175A	WR/DECREED	2/23/1960	1.390 cfs	304.5 af		87.0	GROUND WATER
22-7502	WR/LICENSE	6/27/1985	0.800 cfs	140.0 af		40.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
22-2175B	YES	YES	YES	NO	NO	NO
22-7032	YES	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
22-2175B	22-14442	0.210 cfs	46.6 af	13.3	21.0	22-2175B	1.040 cfs	226.4 af	N/A	64.7
22-7032	22-14441	0.150 cfs	27.0 af	7.7	21.0	22-7032	1.580 cfs	288.0 af	N/A	82.1
COMBINED TOTALS		0.360 cfs	73.6 af	21.0	21.0		N/A	N/A	N/A	N/A

Support Data
In File # 22-2175B

Transfer No. 85692

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 85692

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 28th day of April, 2022.



Regional Manager



Transfer No. 85692

Support Data
In File # 22-2175B

WATER RIGHT NO. 22-7032**As Modified by Transfer No. 85692**

In accordance with the approval of Transfer No. 85692, Water Right No. 22-7032 is now described as follows:

Right Holder: RICHARD F SMITH
JILL D SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 3/13/1970

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	05/01	to 10/01	1.580 cfs	288.0 af
			1.580 cfs	288.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L4 (SWNW) Sec 1 Twp 05N Rge 39E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	39E	1							4.7										4.7
									L 4										
05N	39E	2				40.0													40.0
						L 1													
06N	39E	35															35.1	2.3	37.4

POU Total Acres: 82.1

CONDITIONS OF APPROVAL

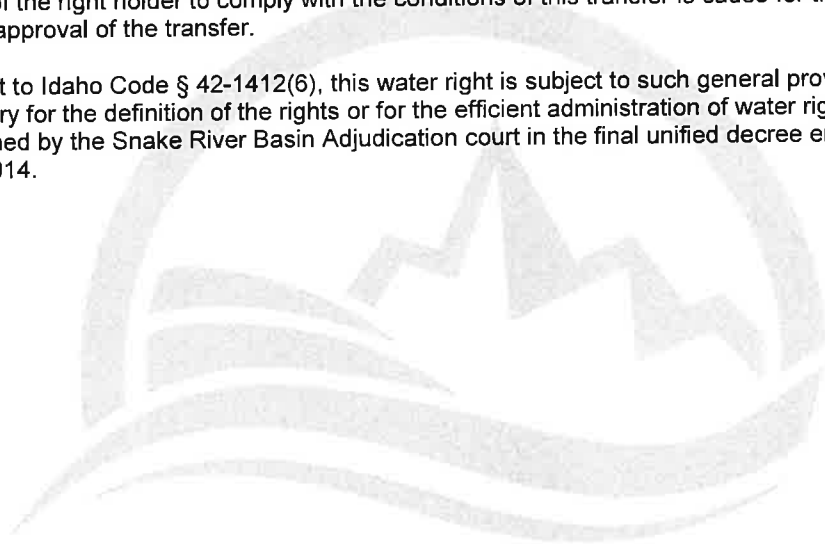
1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.
2. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
3. Prior to the diversion and use of water under Transfer approval 85421, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 85692

WATER RIGHT NO. 22-7032
As Modified by Transfer No. 85692

CONDITIONS OF APPROVAL

4. This right does not grant any right-of-way or easement across the land of another.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 22-14441

As Modified by Transfer No. 85692

In accordance with the approval of Transfer No. 85692, Water Right No. 22-14441 is now described as follows:

Right Holder: RICHARD F SMITH
JILL D SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 3/13/1970

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	05/01	to 10/01	0.150 cfs	27.0 af
			0.150 cfs	27.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 28 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	29	21.0																21.0

Right Acre Limit: 7.7
POU Total Acres: 21.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 7.7 acres within the authorized place of use in a single irrigation season.
2. Rights 22-14441 and 22-14442 when combined shall not exceed a total irrigation of 21 acres.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.
4. Prior to the diversion and use of water under Transfer approval 85692, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 85692

WATER RIGHT NO. 22-14441

As Modified by Transfer No. 85692

CONDITIONS OF APPROVAL

5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 22-2175B

As Modified by Transfer No. 85692

In accordance with the approval of Transfer No. 85692, Water Right No. 22-2175B is now described as follows:

Right Holder: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 2/23/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.040 cfs	226.4 af
			1.040 cfs	226.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 31 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	32											25.7	39.0					64.7

POU Total Acres: 64.7

CONDITIONS OF APPROVAL

1. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
2. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. Claim renumbered from 22-10021 to accurately reflect the water right as split.
4. Rights 22-2175A and 22-7502 are also diverted through point of diversion described above.
5. Rights, 22-2175A, 22-2175B and 22-7502 when combined shall not exceed a total diversion rate of 2.43 cfs.

Transfer No. 85692

WATER RIGHT NO. 22-14442

As Modified by Transfer No. 85692

In accordance with the approval of Transfer No. 85692, Water Right No. 22-14442 is now described as follows:

Right Holder: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 2/23/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.210 cfs	46.6 af
			0.210 cfs	46.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNE Sec 28 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	29	21.0																21.0

Right Acre Limit: 13.3

POU Total Acres: 21.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 13.3 acres within the authorized place of use in a single irrigation season.
2. Rights 22-14441 and 22-14442 when combined shall not exceed a total irrigation of 21 acres.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 100.
4. Prior to the diversion and use of water under Transfer approval 85692, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

Transfer No. 85692

WATER RIGHT NO. 22-14442
As Modified by Transfer No. 85692

CONDITIONS OF APPROVAL

6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 22-2175A

As Modified by Transfer No. 85692

In accordance with the approval of Transfer No. 85692, Water Right No. 22-2175A is now described as follows:

Right Holder: RICHARD F SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 2/23/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.390 cfs	304.5 af
			1.390 cfs	304.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 31 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	31													35.0	35.0	3.0	14.0	87.0

POU Total Acres: 87.0

CONDITIONS OF APPROVAL

1. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
2. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. Rights 22-2175B and 22-7502 are also diverted through point of diversion described above.
4. Rights, 22-2175A, 22-2175B and 22-7502 when combined shall not exceed a total diversion rate of 2.43 cfs.

Transfer No. 85692

WATER RIGHT NO. 22-7502

As Modified by Transfer No. 85692

In accordance with the approval of Transfer No. 85692, Water Right No. 22-7502 is now described as follows:

Right Holder: RICHARD F SMITH
JILL SMITH
PO BOX 8
REXBURG, ID 83440

Priority Date: 6/27/1985

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.800 cfs	140.0 af
			0.800 cfs	140.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 31 Twp 06N Rge 40E MADISON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	32															40.0		40.0

POU Total Acres: 40.0

CONDITIONS OF APPROVAL

1. Rights 22-7502 and 22-13746 when combined shall not exceed the irrigation of 40.0 acres.
2. Rights 22-2175A, 22-2175B and 22-7502 when combined shall not exceed a total diversion rate of 2.43 cfs.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 85692

Attachment to Transfer Approval 85692

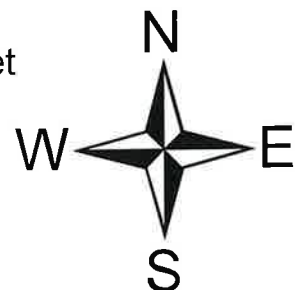
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

-  WR POD
-  WR POU
-  Township/Range
-  Sections
-  QQ

0 375 750 1,500 Feet



Date: 4/28/2022

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.



Governor Brad Little

Director Gary Spackman

April 28, 2022

RICHARD F SMITH
JILL D SMITH
PO BOX 8
REXBURG ID 83440

Re: Transfer No: 85692
Water Right No(s): 22-2175A , 22-2175B , 22-7032, 22-7502

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure
CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 85692

Water Right No(s): 22-2175A , 22-2175B , 22-7032, 22-7502

**RICHARD F SMITH
JILL D SMITH
PO BOX 8
REXBURG ID 83440**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552**



**Christina Henman
Administrative Assistant**