

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85910**

This is to certify that: **KEVIN W TRACY AND
TRUDY TRACY
2262 E 1500 S
MALTA, ID 83342-8628**

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>
43-4004	WR/DECREED	4/10/1960	0.510 cfs	248.4 af	N/A	104.0	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>
43-4004	NO	YES	NO	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>
43-4004	43-4004	0.510 cfs	248.4 af	N/A	104.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.510 cfs	248.4 af	N/A	104.0		N/A	N/A	N/A	N/A

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 12th day of April, 2022.



Southern Region Manager

WATER RIGHT NO. 43-4004
As Modified by Transfer No. 85910

In accordance with the approval of Transfer No. 85910, Water Right No. 43-4004 is now described as follows:

Right Holder: KEVIN W TRACY AND
TRUDY TRACY
2262 E 1500 S
MALTA, ID 83342-8628

Priority Date: 4/10/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.510 cfs	248.4 af
			0.510 cfs	248.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWSE Sec 6 Twp 13S Rge 27E CASSIA 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	
13S	27E	6			27.0					30.0					10.0	37.0			104.0

POU Total Acres: 104.0

CONDITIONS OF APPROVAL

1. Rights 43-188, 43-2290, and 43-4004 when combined shall not exceed the irrigation of 104.0 acres.
2. 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. 143.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 85910

WATER RIGHT NO. 43-4004
As Modified by Transfer No. 85910

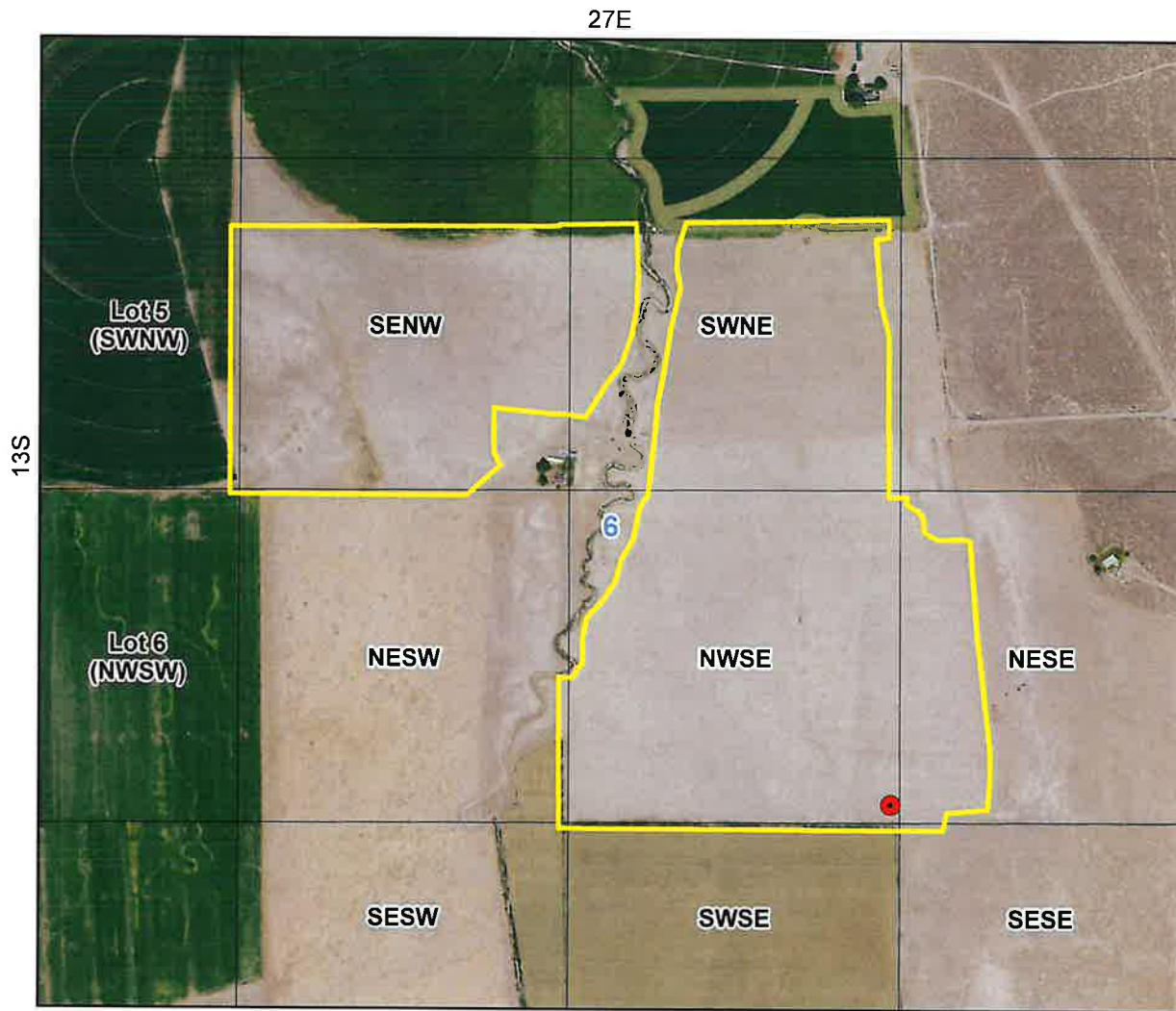
CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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.



State of Idaho
Department of Water Resources
Attachment to Transfer # 85910
43-4004

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



- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters

0 0.075 0.15 0.3 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 85910

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Name of Applicant(s) TRUDY TRACY AND KEVIN W TRACY

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A *Means the item is always required and must be included with the application.

- ☐ * Completed Application for Transfer of Water Right form, Part 1.
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☐ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application
- ☐ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☐ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☐ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☐ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☐ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.)
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: _____

RECEIVED

MAR 22 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

RECEIVED

MAR 22 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPT OF WATER RESOURCES
SOUTHERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant TRUDY TRACY Phone (208) 645-2432
 Mailing Address 2262 E 1500 S, MALTA ID 83342-8628 Email _____
 Name of Applicant KEVIN W TRACY Phone (208) 645-2432
 Mailing Address 2262 E 1500 S, MALTA ID 83342-8628 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☒ No Representative

Name of Representative _____ Phone _____
 Mailing Address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

<u>Kevin W. Tracy</u> Signature of Applicant or Authorized Representative	<u>Kevin W. Tracy</u> Print Name and Title if applicable	<u>3/18/22</u> Date
<u>Trudy Tracy</u> Signature of Applicant or Authorized Representative	<u>Trudy Tracy</u> Print Name and Title if applicable	<u>3-18-22</u> Date

A. PURPOSE OF TRANSFER

1.	Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
	43-4004	No	Yes	No	No	No	No

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**

Transfer will correct the POD which was decreed incorrectly. Actual POD has not changed, it is a paper
correction only. The transfer fee (\$50.00) will fall under Idaho Code 42-221.O. 8.

- B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT TO A SEPARATE SYSTEM, DESCRIBE PORTIONS TO BE CHANGED TO A SEPARATE SYSTEM AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
43-4004	0.510 cfs	248.4 af	N/A	104.0		N/A	N/A	N/A	N/A
COMBINED TOTALS	0.510 cfs	248.4 af	N/A	104.0		N/A	N/A	N/A	N/A

2. Total amount of water proposed to be transferred or changed 0.51 cubic feet per second and/or _____ acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

4. Place of Use:

- ☒ No changes to place of use are proposed. (Proceed to #5.)
- ☐ As shown in Part 1.
- ☐ See Attachment.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes**

Proposed Water Right No. 43-4004

Current Water Right Owner

KEVIN W TRACY
2262 E 1500 S
MALTA, ID 83342-8628

AND

TRUDY TRACY
2262 E 1500 S
MALTA, ID 83342-8628

Priority Date: 4/10/1960

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.510 CFS	248.4 AFA	
Total Diversion			0.510 CFS	248.4 AFA	

Source and Point(s) of Diversion:
GROUND WATER

NWSE

Sec. 6 Twp 13S Rge 27E CASSIA 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	
13S	27E	6			27.0					30.0					10.0	37.0			104.0

POU Total Acres: 104.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future

A measuring device and lockable works to be installed when pump is put in place.

- b. Who owns the property at the point(s) of diversion

Applicants.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
No, ☐ If Yes, ☒

Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it Attachment #6. List the name of the entity and type of lien: D. L. Evans Bank

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

NA

- e. Describe the use of any other water right(s) for the same purpose or land, or same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

No other rights diverted from this POD.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

☐
☐
☐
☐

☒
☒
☒
☒

undergone a period of five or more consecutive years of non-use,
currently leased to the Water Supply Bank,
currently used in a mitigation plan limiting the use of water under the right, or
currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 43-4004

Current Water Right Owner

KEVIN W TRACY
2262 E 1500 S
MALTA, ID 83342-8628

AND

TRUDY TRACY
2262 E 1500 S
MALTA, ID 83342-8628

Priority Date: 4/10/1960

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.510 CFS	248.4 AFA	
Total Diversion			0.510 CFS	248.4 AFA	

Source and Point(s) of Diversion:
GROUND WATER

NWNWSE Sec. 6 Twp 13S Rge 27E CASSIA 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	
13S	27E	6			27.0					30.0					10.0	37.0			104.0

POU Total Acres: 104.0

Conditions/Remarks:

1. WHEN COMBINED THE RIGHTS LISTED BELOW SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE. COMBINED RIGHT NOS.: 43-00188, 43-02290, & 43-04004.
2. USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 104 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-00188, 43-02290, & 43-04004.
3. 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.

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation.
Label it **Attachment #8b**

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.:

[illegible]

Received By Reader Date 3/22/22 Prelim. Check By _____ Date _____
 Fee Paid \$50.00 Date 3/22/2022 Received By P. SKINNER Receipt # 5039139
 Add'l Fee Paid _____ Date _____ Received By _____ Receipt # _____

Kevin & Trudy Tracy POD Transfer #85910

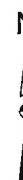


Legend

- Transfer POD
- Township/Range
- Sections
- QQ

85910

0 0.05 0.1 0.2 Miles





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

April 12, 2022

KEVIN W TRACY
TRUDY TRACY
2262 E 1500 S
MALTA ID 83342-8628

Re: Transfer No: 85910
Water Right No(s): 43-4004

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303-0087

WATER DISTRICT 143
BRIAN RAGAN
PO BOX 83720
BOISE ID 83720-0098

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 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.: 85910

Water Right No(s): 43-4004

KEVIN W TRACY
TRUDY TRACY
2262 E 1500 S
MALTA ID 83342-8628

D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303-0087

WATER DISTRICT 143
BRIAN RAGAN
PO BOX 83720
BOISE ID 83720-0098



Denise Maline
Administrative Assistant

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.

MEMORANDUM

Date: March 23, 2022
To: Transfer #85910 File – Kevin and Trudy Tracy
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to correct the point of diversion description for irrigation ground water right 43-4004 (0.51 cfs). The correct POD is located approximately 0.8 mile north and 1.6 miles east of the intersection of State Highways 77 and 81 in Malta. This is a paper correction of the decreed POD; no physical changes have occurred, so advertising is not necessary.

The right is within Water District 143 so comments were solicited from the WD-143 Watermaster. He did not oppose the application.

- **Authority to File:**
The Department's database indicates that water right 43-4004 is owned by Kevin and Trudy Tracy, the applicants. The application was signed by the applicants.
- **Water Right Validity:**
The water right was decreed in the SRBA in 2002, and it appears use may have occurred on the land in recent years.
- **Injury to Other Water Rights:**
None anticipated or foreseen. This is a paper correction only.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. Because the change to the POD is a paper change only, the transfer was not advertised.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Transfer No: 85910
Water Right No: 43-4004
Applicant Name: TRUDY & KEVIN W TRACY

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

Dated: March 23, 2022

Water District 143



Nathan Erickson, Watermaster



IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858
Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

March 23, 2022

WATER DISTRICT 143
NATHAN ERICKSON
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301

RE: Transfer No. 85910 (Kevin and Trudy Tracy), Water Right No. 43-4004

Dear Nathan:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. The original application is being hand-delivered with this letter. Please review the application, then provide any comments you have concerning the application.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

If you have any questions regarding this matter, please contact me at (208) 293-9909.

Sincerely,

Jim Bitzenburg
Senior Water Resource Agent

Hand delivered with original application

MEMORANDUM

Date: March 23, 2022
To: Transfer 85910
From: James Bitzenburg
Re: Legal Notice Not Required

Legal Notice Not Required
3/23/2022

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

The transfer is a paper correction of the point of diversion description which was decreed incorrectly. No actual physical change has occurred.

TRANSFER SYNOPSIS

Date: March 22, 2022
To: Transfer #85910, Kevin and Trudy Tracy Transfer file
From: Jim Bitzenburg
Re: Summary of transfer

Application for transfer proposes to correct the point of diversion description for irrigation ground water right 43-4004 (0.51 cfs). The correct POD is located approximately 0.8 mile north and 1.6 miles east of the intersection of State Highways 77 and 81 in Malta. This is a paper correction of the decreed POD; no physical changes have occurred, so advertising is not necessary.

The right is within Water District 143 so comments will be solicited from the WD-143 Watermaster.

FEE MEMORANDUM

Date: March 22, 2022
To: Kevin and Trudy Tracy Transfer #85910 File
From: Jim Bitzenburg
Re: Receipting/disposition of fees paid

This transfer was filed on March 22, 2022 and the purpose of the transfer is to correct the decreed point of diversion description for an irrigation ground water right. Because the transfer is to correct the decreed legal description and no unauthorized physical change in location has occurred, the fee is \$50.00. The fee was paid by Kevin and Trudy Tracy on the date the application was filed with check #3258. The IDWR receipt number is S039139.

MEMORANDUM

Date: March 22, 2022
To: Kevin and Trudy Tracy POD Transfer #85910 file
From: Jim Bitzenburg
Re: Justification of the \$50.00 transfer fee under Idaho Code 42-221, O. 8

In researching whether or not this transfer qualified for the \$50.00 fee under Idaho Code 42-221, O. 8., it appears that the well has always been situated in its present location. The adjudication claim placed the location in the NWSE of Section 6, T13S, R27E and a hand-drawn sketch in the claim file showed the location accurately placed in the SENWSE. The error appears to have occurred in the recommendation portion of the adjudication process, where a hand-written note reads: "arbitrarily placed location of well...". The recommendation map shows PODs placed in the NWNWSE, and it appears the adjudication paperwork from that point on placed the POD there.