

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 85779**

This is to certify that: KEITH O NEIL HELMICK AND  
SANDRA R HELMICK  
16 E INDIAN CREEK RD  
BOISE, ID 83716-3410

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>  |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|----------------|
| 37-2144            | WR/DECREED          | 7/5/1909             | 0.400 cfs             | N/A                     | N/A               | 20.0               | JOHNSON SPRING |

**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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-2144               | NO           | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-2144                | 37-2144                          | 0.400 cfs            | N/A                    | N/A               | 20.0               | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.400 cfs</b>     | <b>N/A</b>             | <b>N/A</b>        | <b>20.0</b>        |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

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 14<sup>th</sup> day of April, 2022.

  
\_\_\_\_\_  
Southern Region Manager

Transfer No. 85779

# **WATER RIGHT NO. 37-2144**

## **As Modified by Transfer No. 85779**

In accordance with the approval of Transfer No. 85779, Water Right No. 37-2144 is now described as follows:

**Right Holder:** KEITH O NEIL HELMICK AND  
SANDRA R HELMICK  
16 E INDIAN CREEK RD  
BOISE, ID 83716-3410

**Priority Date:** 7/5/1909

**Source:** CAMAS CREEK

**Tributary:** BIG WOOD RIVER

**BENEFICIAL USE**  
IRRIGATION

**From** 04/15 **To** 10/31

**Diversion Rate**  
0.400 cfs  
0.400 cfs

### **LOCATION OF POINT(S) OF DIVERSION**

CAMAS CREEK NWSWNE Sec 5 Twp 02S Rge 11E ELMORE 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 |        |
| 01S | 11E | 32  |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 20.0 |    | 20.0   |

POU Total Acres: 20.0

### **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.37B.
2. 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.
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.
4. Diversion of Camas Creek water is limited to those times when water is available for diversion under this right and priority and when water is flowing into Camas Creek from Johnson Spring within the NESENW Sec. 5, Twp 02S, Rge 11E.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 85779

**WATER RIGHT NO. 37-2144**

**As Modified by Transfer No. 85779**

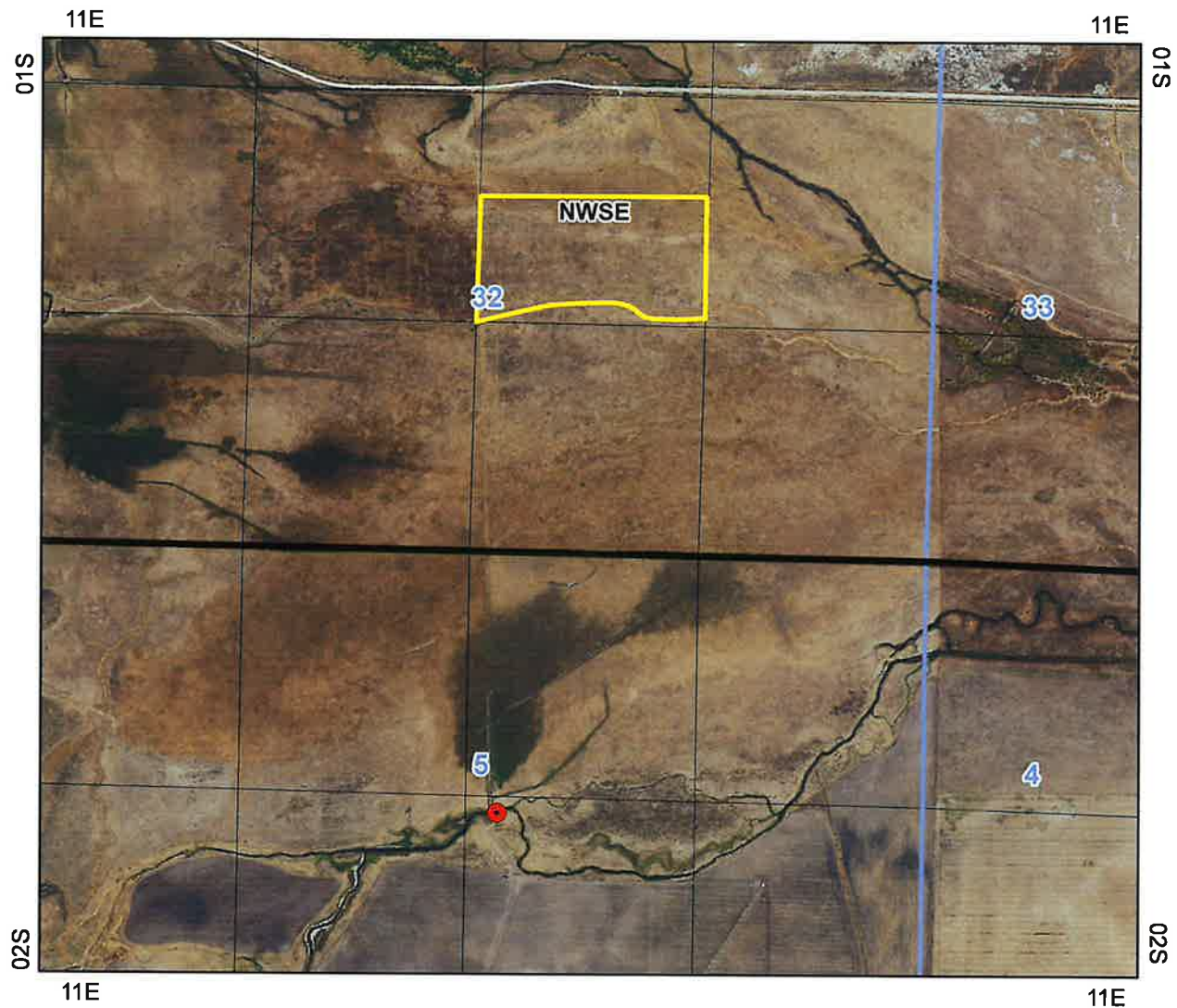
**CONDITIONS OF APPROVAL**

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 # 85779**  
37-2144

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 0.125 0.25 0.5 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](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Gary Spackman**

April 15, 2022

KEITH O NEIL HELMICK  
SANDRA R HELMICK  
16 E INDIAN CREEK RD  
BOISE ID 83716-3410

Re: Transfer No: 85779  
Water Right No(s): 37-2144

**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,

A handwritten signature in blue ink, appearing to read "Corey Skinner".

Corey Skinner  
Southern Regional Manager

Enclosure

c:

FRITZ X HAEMMERLE  
HAEMMERLE LAW PLLC  
PO BOX 1800  
HAILEY ID 83333-1800

WATER DISTRICT 37B  
RUSTY KRAMER  
246B N HWY 46  
FAIRFIELD ID 83327-5560

## CERTIFICATE OF SERVICE

I hereby certify that on April 15, 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.: 85779  
Water Right No(s): 37-2144

KEITH O NEIL HELMICK  
SANDRA R HELMICK  
16 E INDIAN CREEK RD  
BOISE ID 83716-3410

FRITZ X HAEMMERLE  
HAEMMERLE LAW PLLC  
PO BOX 1800  
HAILEY ID 83333-1800

WATER DISTRICT 37B  
RUSTY KRAMER  
246B N HWY 46  
FAIRFIELD ID 83327-5560



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.

## **M E M O R A N D U M**

**Date:** April 4, 2022  
**To:** Transfer 85779 File  
**From:** William Mills  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application for transfer proposes moving the point of diversion (POD) and place of use (POU) for water right 37-2144, a 0.40 cfs, 20 acre Johnson Spring irrigation water right. POD is proposed to be moved approximately 0.1 mile downstream (northeast) to an existing POD on Camas Creek. POU is proposed to be moved approximately 0.4 miles to the northwest from its current location. Current POD is located approximately 19.3 miles west and 4.3 miles south of the intersection of Soldier Rd and Hwy 20 in Fairfield. Current POU is located approximately 18.4 to 18.8 miles west and 4.0 to 4.3 miles south of the intersection of Soldier Rd and Hwy 20 in Fairfield.

As proposed, there are no water right diversions between the original POD and the proposed POD. Two other water rights are diverted at the proposed POD: 37-22792, a 1.54 cfs, 76.9 acre water right owned by the applicants and utilized in a POU adjacent to the proposed POU and 37-4323, a 1.26 cfs, 63.1 acre water right owned by Clare and Karen Olson.

POD and POU are located in Water District 37B, watermaster comments were solicited and the watermaster did not oppose approval of this application. Idaho Department of Fish & game comments were also solicited, and no comments were received.

- **Authority to File:**

IDWR records indicate the applicants currently own the water rights in this transfer and all properties these water rights are associated with. A copy of a warranty deed was provided indicating ownership of the property where the proposed POU will be located.

- **Water Right Validity:**  
Water right 37-2144 was decreed in the SRBA on 05/13/2009. Water right is currently leased to the water supply bank (02/16/2018 to 12/31/2022; Lease Contract No, 771).
- **Injury to Other Water Rights:**  
None anticipated.
- **Enlargement of Use:**  
None anticipated.
- **Local Public Interest:**  
No issues anticipated. Application was subject to public notice and protest.
- **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 on Agricultural Base of the Local Economy:**  
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.**

# AFFIDAVIT OF PUBLICATION

MAR 14 2022  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

County of Elmore } ss.  
State of Idaho

I, **Joy Martinez**, do solemnly swear that I am the Legal Clerk of the:

## Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 2 day of March, 2022, and the last publication having been made on the 9 day of March, 2022; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Joy Martinez  
Legal Clerk

Subscribed and sworn to me this 9th day of Mar, 2022.

Brenda M. Fincher  
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-16-2022**.



## NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85779

KEITH O NEIL HELMICK and SANDRA R HELMICK, 16 E INDIAN CREEK RD, BOISE, ID 83716-3410 has filed Application No. 85779 for changes to the following water rights within ELMORE County(s): Right No(s). 37-2144; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes moving the point of diversion (POD) and place of use (POU) for a 0.40 cfs, 20 acre Johnson Spring irrigation water right. POD is proposed to be moved approximately 0.1 mile downstream (northeast) to an existing POD on Camas Creek. POU is proposed to be moved approximately 0.4 miles to the northwest from its current location. Current POD is located approximately 19.3 miles west and 4.3 miles south of the intersection of Soldier Rd and Hwy 20 in Fairfield. Current POU is located approximately 18.4 to 18.8 miles west and 4.0 to 4.3 miles south of the intersection of Soldier Rd and Hwy 20 in Fairfield.

For additional information concerning the property location, contact Southern Region office at (208)736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 ADDISON AVE W STE 500, TWIN FALLS ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **March 21, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director

First Publication:  
March 2, 2022  
Second Publication:  
March 9, 2022

✓ OK dm 3/28/2022

**State of Idaho**  
**Department of Water Resources**  
**RECOMMENDATION FORM**

RECEIVED

MAR 07 2022

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Re: Transfer No. 85779

Water Right No(s): 37-2144

Transfer Applicant's Name: KEITH & SANDRA HELMICK  
16 E INDIAN CREEK RD  
BOISE ID 83716-3410

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) \_\_\_\_\_ I do not oppose approval of this application if it is conditioned as follows:
- c) \_\_\_\_\_ I oppose approval of this application for the following reasons:
- d) \_\_\_\_\_ Additional comments:

Dated this 2<sup>nd</sup> day of March, 2022

**Water District 37B**

  
\_\_\_\_\_  
Watermaster's Signature  
Rusty Kramer  
\_\_\_\_\_  
Printed Name