

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 04 2022

APPLICATION FOR TRANSFER OF WATER RIGHT Department of Water Resource
PART 1 Eastern Region

Name of Applicant(s) Monte Henderson Phone 208.317.1679
Mailing address PO Box 32, Swan Lake, ID 83281 Email hendersonmonte@yahoo.com

- ☐ 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.


Signature of Applicant or Authorized Representative

Monte Henderson
Print Name and Title if applicable

3/4/2022
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use

☐ Change nature of use ☐ Change period of use ☐ Other Clarify POD
- Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.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.3**.
Condense place of use onto actual irrigated acres & clarify the location of the point of diversion
since it was not described on the decree. Will also update ownership of the water right.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	13-871	1.30 cfs	Irrigation	4/20 to 9/30	Divide Creek/Shingle Creek
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.30 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.30 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
N	1		NW	NW	7	12S	39E	Bannock	Divide Creek	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	39E	5											22						22
		6															4.1	25	29.1
		7	4.1																4.1
		8					4.2	13											17.2
Total Acres (for irrigation use)																			72.4

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:

Concrete headgate to ditch to flood and sprinkler irrigation

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

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Historical point of diversion. No change in point of diversion is proposed.

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
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: _____

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. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

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

None. Not possible to irrigate the other lands described in the decree with water from Divide Creek. There are other water rights on a portion of the decreed place of use from other sources.

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

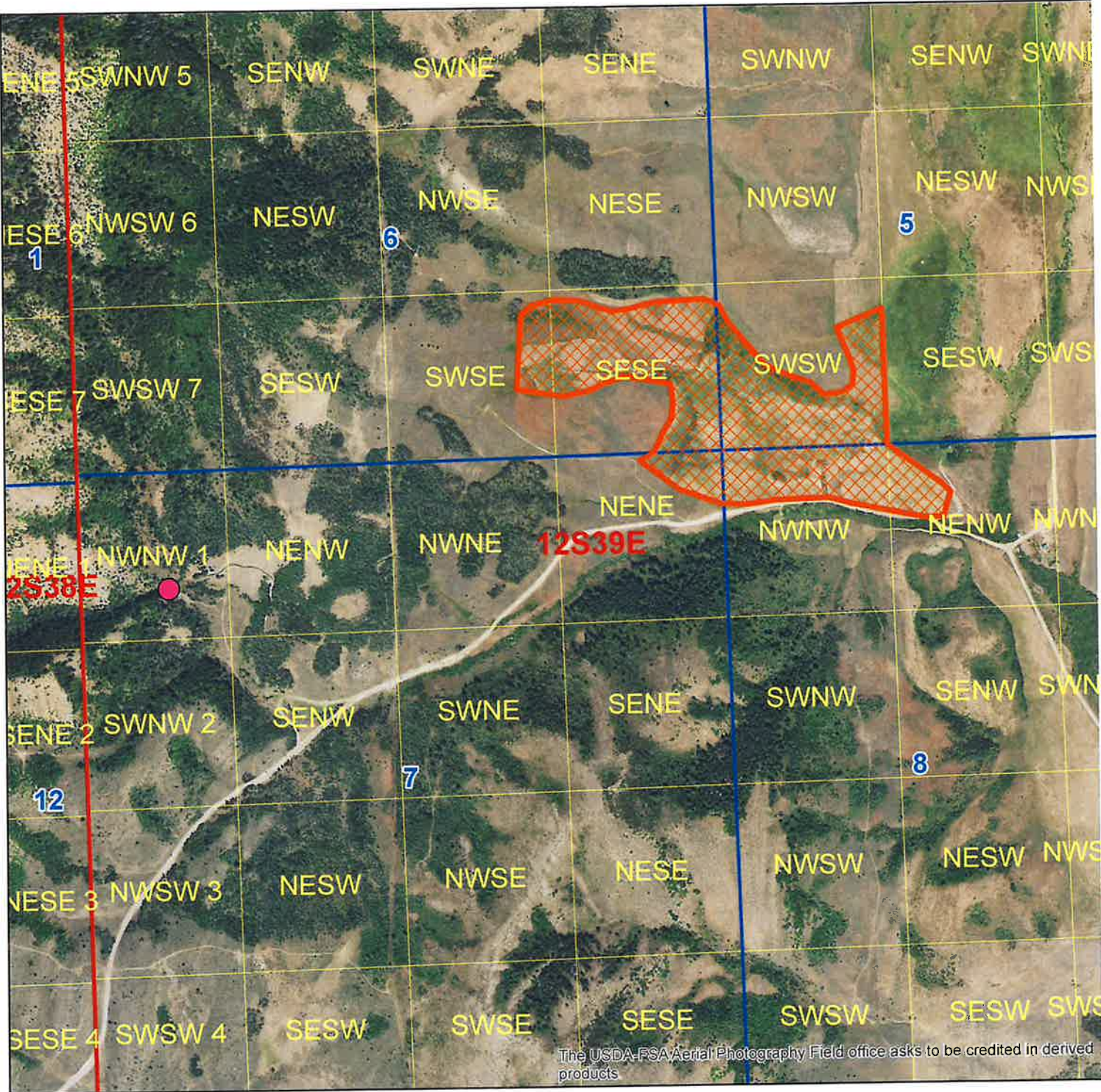
None.

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

Yes No

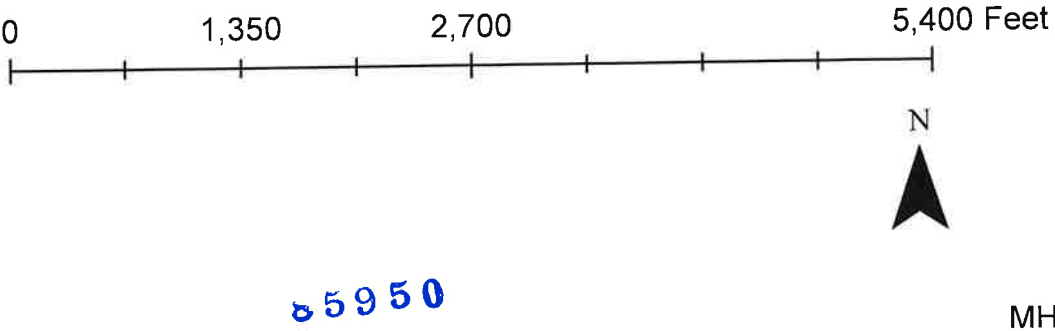
- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right,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

If yes, describe:



Legend

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



IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

3/4/2022

Water Right 13-871

Owner Type
Current Owner

Name
TOMMY C WADDOUPS

Priority Date: 6/1/1888

Basis: Decreed

Status: Active

Source
DIVIDE CREEK

Tributary
COTTONWOOD CREEK

Beneficial Use
IRRIGATION

From 4/20
To 9/30

Diversion Rate
1.300 CFS

Volume

Total Diversion 1.300 CFS

Source and Point(s) of Diversion:
DIVIDE CREEK

Place Of Use:

IRRIGATION within BANNOCK County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	39E	5									X			X					0.0
12S	39E	6																X	0.0
12S	39E	8	X	X		X					X								0.0

POU Total Acres: 0.0

Conditions of Approval:

1. P/D NOT STATED IN DECREE P/U AC IRR = 320

Comments:

Dates and Other Information:

Decreed Date: 7/14/1920
Judicial District: District Court Eastern Division
Water District Number: 13M
Decree Defendant: Last Chance Canal Co
Decree Plaintiff: Utah Power & Light Co
Mitigation Plan: False

In Equity No. 203

**In the District Court of the United States
for the District of Idaho, Eastern Division**

UTAH POWER & LIGHT COMPANY, a Corporation, *Plaintiff,*

vs.

The Last Chance Canal Company, Limited; The Tanner Canal Company, Limited; The Central Canal Company, The North Extension Canal Company, Limited; West Branch Canal Company, Limited; The Turner Canal Company, Limited; The East Branch Canal Company, The Bench Canal, and Budge Land & Live Stock Company, Limited, corporations; W. H. Larkins, Jas. Ellsmore, Geo. Hogan, Lewis S. Pond and Alex Harris as Trustees of the Gentile Valley Irrigation Company, Limited, late a corporation; The Thatcher Irrigation Company, Limited, a corporation; Nathan D. Thatcher, J. A. Folkman, Milton Robbins and Geo. M. Smith, as Trustees of Thatcher Canal & Power Company, Limited, late a corporation; Nelson Ditch Company, a corporation; A. J. Nielson, B. R. Meek, Henry McCuen, C. S. Burton and Eli Fosgreen, as Trustees of Riverdale-Preston Irrigation Company, late a corporation; The Riverdale Irrigating Company, Nielson-Meek Company and West Cache Irrigation Company, corporations; E. P. Johnson, Albert Johnson, Hyrum Johnson, Geo. D. Anderson, Joseph T. Pond, Frank W. Harris, A. C. Bosen, Hyrum J. Smith, John E. Hill, Melvin Green, Robert L. Smith, Charles Westerburg, Peter Westerburg and David P. Evans.

Horace Howard, Henry Rhinehart, Harvey W. Higley, James Monroe (or Munro), Nellie Simmons, John Baird, William Monroe (or Munro), Orrin Monroe (or Munro), Charles Monroe (or Munro), Charles Foster, Hyrum Foster, Mary Baird, John Woodall (or J. D. Woodall), George Ellis, Skinner Irrigation Company, a corporation; Heber Crane, Fred Bartschi, Charles Bartschi, David Chugg, Phillip Chugg, Fred Stauffer, William Williams, Sr. (or William Morgan Williams), William Williams, Jr. (or William Mormon Williams), Oliver Williams, E. M. Lindsay, Georgetown Irrigation Company, a corporation, and Thomas Freeman.

MAY 14 1906

DATE OF
PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

~~11 0800~~ / 3-0871

449. *Thomas Waddoups:*

1888—June 1

1.3 c.f.s.

~~11 0810~~ 0872

450. *Albert Capson, successor in interest to Leo Mecham:*

1893—June 1

1.46 c.f.s.

~~11 0811~~ 0873

451. *A. H. Rencher:*

1916—July 10

1.6 c.f.s.

Idaho, and the same is subject to the provisions of the laws of the State of Idaho governing the issuance by the Commissioner of Reclamation of the State of Idaho.

For the irrigation of 320 acres in the East half of the Southwest quarter Section 5, Southeast quarter of Southeast quarter of Section 6, North half of the Northeast quarter and the Southeast quarter of the Northeast quarter and the Northeast quarter of the Southwest quarter of Section 8, Township 12 South, Range 39 East, B.M. Said water to be diverted from Divide Creek, a tributary of Cottonwood Creek, from points thereon where the said stream crosses the said lands.

To be diverted from Cow Hollow Creek, a tributary to the said Cottonwood Creek, through the Walker ditch diverting therefrom in Section 5, Township 12 South, Range 39 East, for the irrigation of 320 acres in the Southeast quarter of the Southeast quarter of Section 5, the North half of the Northeast quarter of Section 8, and the Northwest quarter of the Northwest quarter of Section 9, the South half of the Southeast quarter and the South half of the Southwest quarter of Section 4, said Township and Range.

To be diverted from said Cottonwood Creek through a ditch diverting therefrom in Section 17, Township 13 South, Range 39 East, for the irrigation of 80 acres in the Southeast quarter of the Northeast quarter and the Southeast quarter of the Northwest quarter of Section 17, said Township and Range. Provided however, that the priority and the amount of this appropriation is conditioned upon a compliance with the terms of the permit upon which said appropriations are based, to-wit: Permit No. 12327, issued by the State Engineer of the State of Idaho, and the same is subject to the provisions of the laws of the State of Idaho governing the issuance of water licenses by the Commissioner of Reclamation of the said State of Idaho.

MAY 14 1995

All the foregoing reservations of jurisdiction shall extend after the term at which this decree is entered, and during any subsequent term prior to January 1, 1924, at which time, or at such earlier time as the court may determine these matters, this decree shall be closed. In all other respects this decree shall be final.

The court further retains jurisdiction, however, at all times, and from time to time, to make all reasonable rules touching the manner of diverting, measuring and distributing the waters, and the devices to be installed and used for such purposes where it may be impracticable to fully comply with the terms of this decree, and to direct that the parties keep accurate and detailed records of the amounts of water diverted, and to require reports to be filed from time to time of the amount so diverted, and generally to make such orders as may be found reasonably necessary to give effect to the decree, and to appoint commissioners or water masters to make distribution in accordance with its terms, and to punish the parties hereto, their officers, agents and employes, and their grantees and successors in interest, for any violation of the provisions thereof.

Done in open court this 14th day of July, 1920.

FRANK S. DIETRICH,
Judge.

MICROFILMED

MAY 1 4 1996

117

85950



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

March 23, 2022

MONTE HENDERSON
PO BOX 32
SWANLAKE, ID 83281

RE: Transfer No. 85950
Water Right No(s). 13-871

Dear Applicant:

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATE JOURNAL, PRESTON CITIZEN on 3/30/2022 and 4/6/2022. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman
Administrative Assistant

Henman, Christina

From: Henman, Christina
Sent: Wednesday, March 23, 2022 3:58 PM
To: legals@prestoncitizen.com
Subject: Legal Notice for Preston Citizen
Attachments: 85950 Idaho State Journal, Preston Citizen.docx

LEGAL NOTICE DEPARTMENT
PRESTON CITIZEN
PO BOX 472
PRESTON, ID 83263

RE: Transfer No. 85950
Water Right No(s). 13-871

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 4/18/2022. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

Henman, Christina

From: Henman, Christina
Sent: Wednesday, March 23, 2022 3:58 PM
To: legalnotices@postregister.com
Subject: Legal Notice for Idaho State Journal
Attachments: 85950 Idaho State Journal, Preston Citizen.docx

LEGAL NOTICE DEPARTMENT
IDAHO STATE JOURNAL
PO BOX 431
POCATELLO, ID 83204-0431

RE: Transfer No. 85950
Water Right No(s). 13-871

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 4/18/2022. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85950**

MONTE HENDERSON, PO BOX 32, SWANLAKE, ID 83281 has filed Application No. 85950 for changes to the following water rights within BANNOCK County(s): Right No(s). 13-871; 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: clarify point of diversion and change place of use. The proposed point of diversion is in Lot 1 (NWNW) Sec 7 T12S R39E for 1.30 cfs from Divide Creek. The proposed place of use is in SWSW Sec 5, SWSE and SESE Sec 6, NENE Sec 7, and NENW and NWNW Sec 8, T12S R39E for 72.4 acres.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 4/18/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 3/30/2022 and 4/6/2022