

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85694**

This is to certify that: **WARD BROTHERS DAIRY**
PO BOX 163
BLOOMINGTON, ID 83223-0163

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>
11-76	WR/DECREED	5/1/1890	4.000 cfs	N/A	N/A	292.0	PARIS CREEK

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>
11-79	WR/DECREED	6/8/1911	0.260 cfs	N/A		12.0	PARIS CREEK

Purpose of Transfer (Changes Proposed)

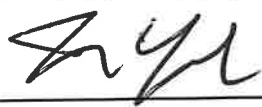
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
11-76	YES	YES	YES	NO	NO	YES

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>
11-76	11-7902	0.180 cfs	15.6 af	N/A	N/A	11-76	3.250 cfs	N/A	N/A	113.0
COMBINED TOTALS		N/A	N/A	N/A	N/A		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 24th day of February, 2022.



Regional Manager

Transfer No. 85694

**Support Data
In File # 11-76**

WATER RIGHT NO. 11-76
As Modified by Transfer No. 85694

In accordance with the approval of Transfer No. 85694, Water Right No. 11-76 is now described as follows:

Right Holder: OTTO ROHNER
 GUSTAV WIELENMAN
 J VIVIAN NYE

Priority Date: 5/1/1890

Source: PARIS CREEK

Tributary: BEAR LAKE OUTLET

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	05/01	to 09/15	3.250 cfs 3.250 cfs

LOCATION OF POINT(S) OF DIVERSION

PARIS CREEK SENW Sec 13 Twp 14S Rge 42E BEAR LAKE 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	
14S	43E	9													28.0			40.0	68.0
14S	43E	10									3.0	30.0	12.0						45.0

POU Total Acres: 113.0

CONDITIONS OF APPROVAL

- Pursuant to the 1932 Paris Creek Decree, water right 11-76 is split between three water users as follows: 2/5 ths (1.60 cfs) to Otto Rohner, 2/5 ths (1.60 cfs) to J. Vivian Nye, and 1/5 th (0.80 cfs) to Gustav Weileman. The Weileman portion was split through Transfer 85694. Only 0.05 cfs of the Weileman portion remains after Transfer Approval 85694.

Transfer No. 85694

WATER RIGHT NO. 11-7902
As Modified by Transfer No. 85694

In accordance with the approval of Transfer No. 85694, Water Right No. 11-7902 is now described as follows:

Right Holder: WARD BROTHERS DAIRY
 PO BOX 163
 BLOOMINGTON, ID 83223-0163

Priority Date: 5/1/1890

Source: PARIS CREEK **Tributary:** BEAR LAKE OUTLET

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
DIVERSION TO STORAGE	05/01	to 09/15	0.060 cfs	
STOCKWATER	05/01	to 09/15	0.120 cfs	2.6 af
STOCKWATER STORAGE	01/01	to 12/31	0.180 cfs	13.0 af
				15.6 af

LOCATION OF POINT(S) OF DIVERSION

PARIS CREEK NWNW Sec 17 Twp 14S Rge 43E BEAR LAKE County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	43E	17										X							
14S	43E	18													X				
14S	43E	19		X															

PLACE OF USE: STOCKWATER STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	43E	18																X	

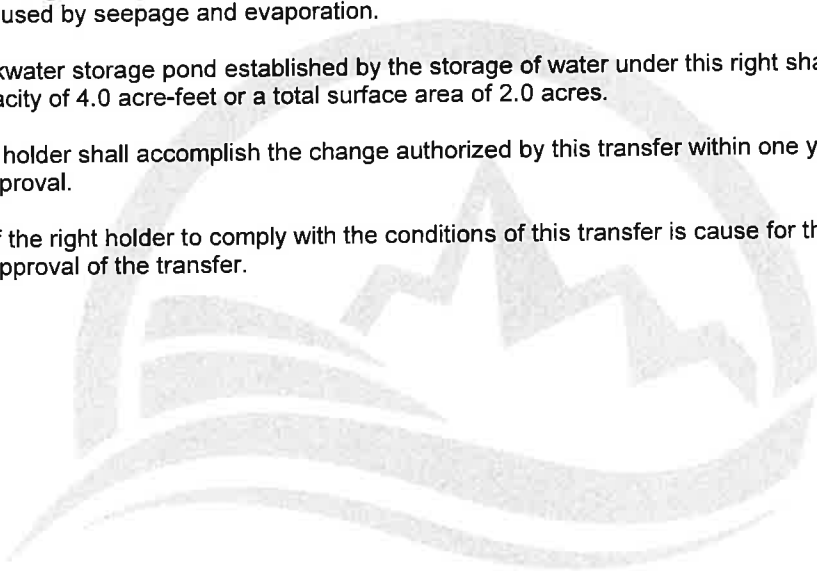
CONDITIONS OF APPROVAL

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. 11E.
2. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
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).

Transfer No. 85694

WATER RIGHT NO. 11-7902
As Modified by Transfer No. 85694

CONDITIONS OF APPROVAL

4. Stockwater use is for 500 range cattle.
 5. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
 6. This right authorizes a total annual storage volume of 13.0 acre-feet, 4.0 acre-feet to be used for the initial filling or carryover storage of the stockwater pond, and 9.0 acre-feet for the replacement of losses caused by seepage and evaporation.
 7. The stockwater storage pond established by the storage of water under this right shall not exceed a total capacity of 4.0 acre-feet or a total surface area of 2.0 acres.
 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.
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WATER RIGHT NO. 11-79

As Modified by Transfer No. 85694

In accordance with the approval of Transfer No. 85694, Water Right No. 11-79 is now described as follows:

Right Holder: GUSTAV WEILENMANN

Priority Date: 6/8/1911

Source: PARIS CREEK

Tributary: BEAR LAKE OUTLET

BENEFICIAL USE
IRRIGATION

From 05/01 **To** 09/15

Diversion Rate
0.260 cfs
0.260 cfs

LOCATION OF POINT(S) OF DIVERSION

PARIS CREEK SENW Sec 13 Twp 14S Rge 42E BEAR LAKE 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	
14S	43E	10												12.0					12.0

POU Total Acres: 12.0

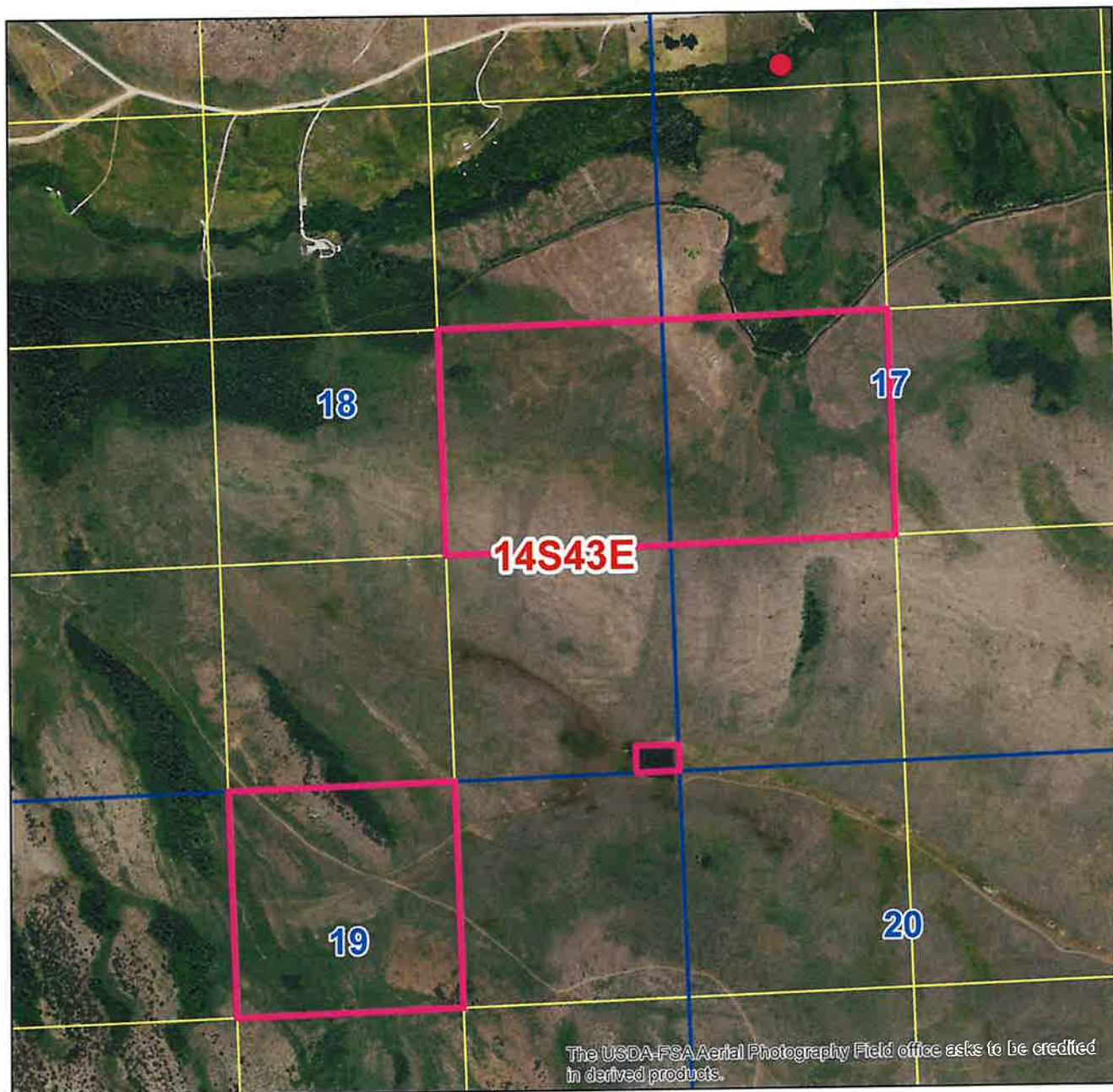
CONDITIONS OF APPROVAL

1. The remainder of this right, the portion owned by Ward Brothers Dairy, was abandoned through Transfer 85694 to prevent enlargement of water right 11-7902.

Transfer No. 85694

Attachment to Transfer Approval 85694

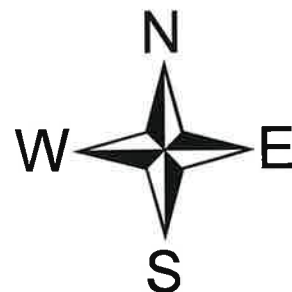
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 500 1,000 2,000 Feet



Date: 2/24/2022



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

February 24, 2022

WARD BROTHERS DAIRY
PO BOX 163
BLOOMINGTON ID 83223-0163

Re: Transfer No: 85694
Water Right No(s): 11-76, 11-79

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,

A handwritten signature in blue ink, appearing to read 'CH', is positioned above the printed name.

Christina Henman
Administrative Assistant

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 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.: 85694

Water Right No(s): 11-76, 11-79

WARD BROTHERS DAIRY

PO BOX 163

BLOOMINGTON ID 83223-0163



Christina Henman
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.