

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85586**

This is to certify that: **DAVID A JARVIS AND
SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS, ID 83226-4870**

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>
72-10168	WR/DECREED	5/1/1950	1.200 cfs	N/A	N/A	72.6	BEAR CREEK, CHALLIS CREEK
72-32D	WR/DECREED	7/22/1910	1.200 cfs	N/A	N/A	72.6	BEAR CREEK, CHALLIS 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>
72-10168	NO	NO	NO	YES	NO	NO
72-32D	NO	NO	NO	YES	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>
72-10168	72-10168	1.200 cfs	N/A	N/A	72.6	N/A	N/A	N/A	N/A	N/A
72-32D	72-32D	1.200 cfs	N/A	N/A	72.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.400 cfs	N/A	N/A	72.6		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 18th day of February, 2022.



Southern Region Manager

SUPPORT DATA

Transfer No. 85586

IN FILE # 72-32D

WATER RIGHT NO. 72-32D**As Modified by Transfer No. 85586**

In accordance with the approval of Transfer No. 85586, Water Right No. 72-32D is now described as follows:

Right Holder: DAVID A JARVIS AND
SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS, ID 83226-4870

Priority Date: 7/22/1910

Source: CHALLIS CREEK
Source: BEAR CREEK

Tributary: SALMON RIVER
Tributary: CHALLIS CREEK

BENEFICIAL USE
IRRIGATION

From
4/15

To
to 10/15

Diversion Rate
1.200 cfs
1.200 cfs

LOCATION OF POINT(S) OF DIVERSION

CHALLIS CREEK	NWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	NWSWNE	Sec 4	Twp 14N Rge 18E	CUSTER County
BEAR CREEK	NESENW	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENW	Sec 4	Twp 14N Rge 18E	CUSTER 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	
14N	18E	3							28.0				5.9						33.9
14N	18E	4	4.9	0.1		31.0									2.7				38.7

POU Total Acres: 72.6

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. 72A.
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 diversions.
3. Rights 72-32D and 72-10168 when combined shall not exceed the irrigation of 72.6 acres.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 85586

WATER RIGHT NO. 72-32D
As Modified by Transfer No. 85586

CONDITIONS OF APPROVAL

5. The period of use for the irrigation described in this approval may be extended to a beginning date of 4/1 and an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/15 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than December 18, 2001.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
7. This right does not grant any right-of-way or easement across the land of another.
8. Portion of property is also known as Homestead Entry Survey No. 586.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 72-10168**As Modified by Transfer No. 85586**

In accordance with the approval of Transfer No. 85586, Water Right No. 72-10168 is now described as follows:

Right Holder: DAVID A JARVIS AND
SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS, ID 83226-4870

Priority Date: 5/1/1950

Source: CHALLIS CREEK
Source: BEAR CREEK

Tributary: SALMON RIVER
Tributary: CHALLIS CREEK

BENEFICIAL USE

IRRIGATION

From

4/01

to

To

10/31

Diversion Rate

1.200 cfs

1.200 cfs

LOCATION OF POINT(S) OF DIVERSION

CHALLIS CREEK	NWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENE	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	NWSWNE	Sec 4	Twp 14N Rge 18E	CUSTER County
BEAR CREEK	NESENW	Sec 4	Twp 14N Rge 18E	CUSTER County
CHALLIS CREEK	SWSENW	Sec 4	Twp 14N Rge 18E	CUSTER 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	
14N	18E	3							28.0			5.9							33.9
14N	18E	4	4.9	0.1		31.0									2.7				38.7

POU Total Acres: 72.6

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 72A.
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 diversions.
3. Rights 72-32D and 72-10168 when combined shall not exceed the irrigation of 72.6 acres.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 85586

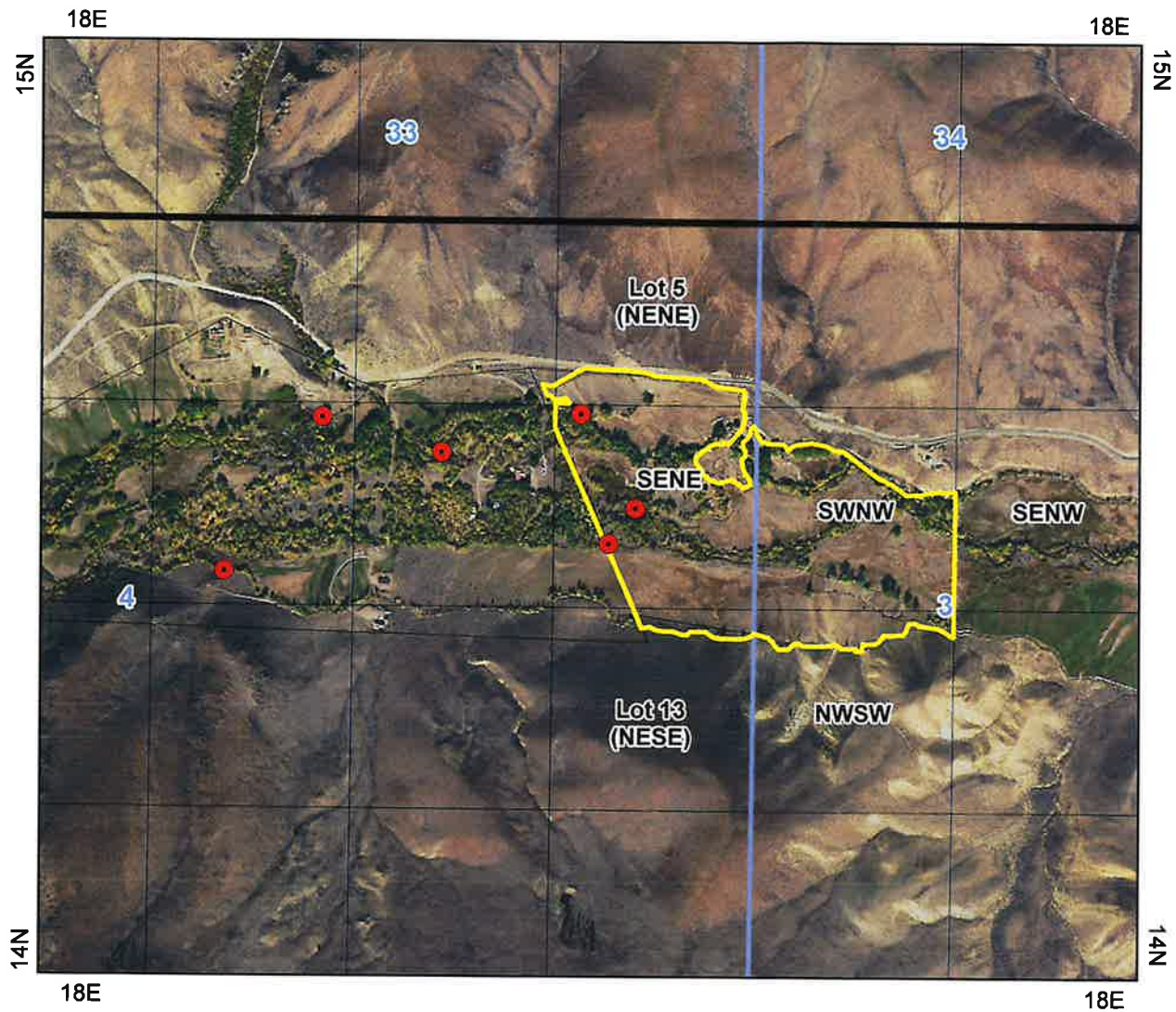
WATER RIGHT NO. 72-10168
As Modified by Transfer No. 85586

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
6. This right does not grant any right-of-way or easement across the land of another.
7. Portion of property is also known as Homestead Entry Survey No. 586.
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.

State of Idaho
Department of Water Resources
Attachment to Transfer # 85586
72-32D & 72-10168

This map depicts the IRRIGATION place of use boundary for these 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 • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

February 23, 2022

DAVID A JARVIS
SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS ID 83226-4870

Re: Transfer No: 85586
Water Right No(s): 72-32D, 72-10168

Transfer Approval Notice

Dear Water Right Holder(s):

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
Regional Manager

Enclosure

c:

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910

WATER DISTRICT 170
DAVID GRAYBILL
102 S WARPATH
SALMON ID 83467

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

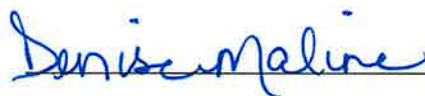
Re: Transfer No.: 85586

Water Right No(s): 72-32D , 72-10168

DAVID A JARVIS
SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS ID 83226-4870

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910

WATER DISTRICT 170
DAVID GRAYBILL
102 S WARPATH
SALMON ID 83467



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: February 9, 2022
To: Transfer 85586 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes adding a new point of diversion as one of six points of diversion (PODs) for two irrigation rights, 72-32D & 72-10168, diverted from Bear Creek & Challis Creek, (Combined 2.4 cfs; 72.6 acres). Proposed POD is located approximately 4.7 miles north and 5.6 miles west of the intersection of Hwy 75 and Hwy 93 in Challis. The five existing PODs and POU are located approximately 4.5 to 4.9 miles north and 5.2 to 6.2 miles west of the intersection of Hwy 75 and Hwy 93 in Challis.

Water right 72-10168 listed the source for an existing POD located in the SWSENW of Sec. 4, Twp 14N, Rge 18E as Bear Creek, while right 72-32D listed the source for the same POD as Challis Creek. A spatial data point for water accounting identifies the diversion name as CHLC11 and viewing the creeks in the DRG Quad map layer also indicates this diversion is on Challis Creek. Additionally, another six water rights diverted at this POD list Challis Creek as their source. It should be noted that the partial decree lists both sources, but does not identify each diversion by water source. For the purpose of consistency, the source for this diversion was changed from Bear Creek to Challis Creek on water right 72-10168.

All PODs and POUs are within Water District 72A and Water District 170. Watermaster comments were solicited, and no responses were received. Idaho Department of Fish & Game comments were also solicited, and IDF&G did not oppose approval of the application provided it was conditioned with fish screening requirements (Condition 029).

- **Authority to File:**

IDWR records indicate the applicant currently owns the water rights in this transfer and associated properties at the place of use and proposed new point of diversion.

- **Water Right Validity:**
Water rights 72-32D was decreed in the SRBA on 12/18/2001 and right 72-10168 was decreed in the SRBA on 10/12/2001. Place of use appears to be irrigated in recent aerial imagery.
- **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.

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

RECEIVED

FEB 07 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

(rec'd 1/31 via E-mail)

Re: Transfer No. 85586

Water Right No(s): 72-32D, 72-10168

Transfer Applicant's Name: DAVID & SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS ID 83226

Recommendation:

a) _____ I do not oppose approval of this application.

b) X I do not oppose approval of this application if it is conditioned as follows:

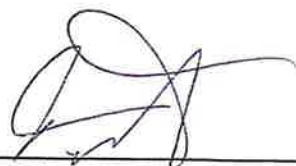
Prior to diversion and use of water under this Transfer No. 85586, the transfer holder shall install a functioning NMFS criteria fish screen at the POD approved by the Idaho Department of Fish and Game (IDFG). Please contact Mike Demick at the IDFG Screen Shop. His contact information is 208-756-6022 or mike.demick@idfg.idaho.gov

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this 31 day of January, 2022

Dept of Fish & Game



Signature

Tom Curet

Printed Name



PROOF OF PUBLICATION
The Challis Messenger

RECEIVED

FEB 01 2022

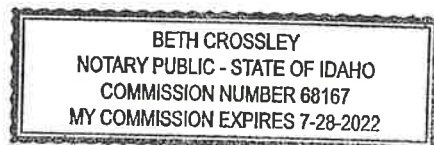
DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
County of Custer

I, ~~Dawn Giannini~~, or Collins Crapo first being duly sworn, depose and say: That I am the ~~Classified Manager~~, or Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Challis Messenger, a newspaper of general circulation, published 1 day, Thursday at Challis, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said The Challis Messenger for 2, first publication having been made on 01/20/2022 last publication having been made on 01/27/2022, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, on this 27th day of January, 2022.



Notary Public
My commission expires:

attached jurat _____

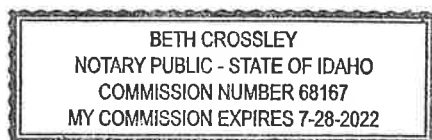
STATE OF IDAHO

ss.

COUNTY OF CUSTER

On this 27th day of January, 2022 before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini~~ or Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for APG of the Rockies
Residing: Idaho Falls, Idaho
Commission expires:

✓ dm 2/8/2022

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85586**

SAMANTHIA JARVIS and DAVID A JARVIS, 9557 CHALLIS CREEK RD, CHALLIS, ID 83226-4870 has filed Application No. 85586 for changes to the following water rights within CUSTER County(s): Right No(s). 72-10168, 72-32D; 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 proposes adding a new point of diversion as one of six points of diversion (PODs) for two irrigation rights diverted from Bear Creek & Challis Creek, (Combined 2.4 cfs; 72.6 acres). Proposed POD is located approximately 4.7 miles north and 5.6 miles west of the intersection of Hwy 75 and Hwy 93 in Challis. The five existing PODs and POU are located approximately 4.5 to 4.9 miles north and 5.2 to 6.2 miles west of the intersection of Hwy 75 and Hwy 93 in Challis.

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 **February 7, 2022**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published Jan 20 and 27, 2022 (CM12622-192339)

✓ dm 2/8/2022

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

RECEIVED

JAN 31 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

Re: Transfer No. 85586

Water Right No(s): 72-32D, 72-10168

Transfer Applicant's Name: DAVID & SAMANTHIA JARVIS
9557 CHALLIS CREEK RD
CHALLIS ID 83226

Recommendation:

a) _____ I do not oppose approval of this application.

b) X I do not oppose approval of this application if it is conditioned as follows:

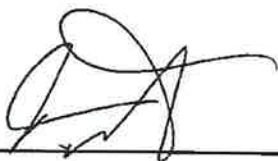
Prior to diversion and use of water under this Transfer No. 85586, the transfer holder shall install a functioning NMFS criteria fish screen at the POD approved by the Idaho Department of Fish and Game (IDFG). Please contact Mike Demick at the IDFG Screen Shop. His contact information is 208-756-6022 or mike.demick@idfg.idaho.gov

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this 31 day of January, 2022

Dept of Fish & Game



Signature

Tom Curet

Printed Name