

RECEIVED

STATE OF IDAHO

Transfer No.

85455

DEPARTMENT OF WATER RESOURCES

OCT 25 2021

MINIMUM REQUIREMENTS CHECKLIST

RECEIVED

NOV 08 2021

WATER RESOURCES

WATER RESOURCES
WESTERN REGION

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 idwr.idaho.gov.

Name of Applicant(s) David WickmarkCheck 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 #1-10.

- ☐ ☒ #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 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).**
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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 <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☐ ☒ #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. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #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.) Additional fee required for proposed changes to nature of use; see [fee schedule](#).
- ☐ ☒ #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 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. ([Attachment WSB](#))
- ☒ ☐ #10 Other. Please describe: _____

85455

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) DAVID WICKMARK Phone 208 340-0843
Mailing address 2615 NE MEADOWLARK LANE, MOUNTAIN HOME IDAHO 83647 Email YOTEROLLER@MSN.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.

 DAVID K. WICKMARK 10/22/21
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use
 ☐ Add diversion point(s)
☐ Change period of use
 ☒ Change place of use
☐ Other _____
- Is this a transfer for changes pursuant to Idaho Code §42-221.0.8?
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**.

IRRIGATE TREES

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 ☐ Part					
☒	61-11989	0.06 CFS	IRRIGATION	4/01 to 10/31	GROUND WATER
☒	61-11991	0.01 CFS	IRRIGATION	3/15 4/01 to 10/31 11/15	GROUND WATER
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 0.06 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.07 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	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local name or tag #
-	-	-	NW	NW	7	03S	07E	ELMORE	GROUND WATER	440259

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

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

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
63S	07E	7						5											5
Total Acres (for irrigation use)																			



7B

Application for Transfer

OLD



85465

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:

INSTALL A FLOW METER @ the headend of Irrigation System.

- b. Who owns the property at the point(s) of diversion? Ido. David Wickmark

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?

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: No Lien. OWNER'S OUTFIT.

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:

No Change

- 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:

DOMESTIC WATER Right for each property

- 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:

I understood I had placed these rights in the Water Bank. I later learned (A Number of years later) the request was ~~denied~~ denied.

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

10/25/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 61-11991

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID K WICKMARK 2615 NE MEADOWLARK LN MOUNTAIN HOME, ID 83647 2083400843
Original Owner	DALE E GILBERT PO BOX 606 WENDELL, ID 83355 2085362481

Priority Date: 03/15/1977

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.01 CFS	
Total Diversion			0.01 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NENW|Sec. 07|Township 03S|Range 07E|ELMORE County

IRRIGATION Use:

Acre Limit: 0.7

Place(s) of use:

Place of Use Legal Description: IRRIGATION ELMORE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 161

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Combined Acres Limit: 5

Combined Volume Limit: 19.9

Combined Rate Limit: 0.06

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

10/25/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 61-11989

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DAVID K WICKMARK 2615 NE MEADOWLARK LN MOUNTAIN HOME, ID 83647 2083400843
Original Owner	DALE E GILBERT PO BOX 606 WENDELL, ID 83355 2085362481

Priority Date: 04/23/1964

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.06 CFS	18.9 AFA
Total Diversion			0.06 CFS	18.9 AFA

Location of Point(s) of Diversion:

GROUND WATER|NENW|Sec. 07|Township 03S|Range 07E|ELMORE County

IRRIGATION Use:

Acre Limit: 4.3

Place(s) of use:

Place of Use Legal Description: IRRIGATION ELMORE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 161

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Combined Acres Limit: 5

Combined Volume Limit: 19.9

Combined Rate Limit: 0.06

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



RE-13 COUNTER OFFER # 1 (1,2,3 etc.)

THIS COUNTER OFFER SUPERSEDES ALL PRIOR COUNTER OFFERS

JULY 2019 EDITION
Page 1 of 1



THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS.
IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY AND/OR ACCOUNTANT BEFORE SIGNING.

1 Today's Date: 09/24/2021

2

3 This is a COUNTER OFFER to the Purchase and Sale Agreement Dated: 09/23/2021

4

5 ADDRESS: 5441 NE Rancho Way Mountain Home Id 83647 ID#: 98805809

6

7 BUYER: Stewart Holmes & Elayna Holmes

8

9 SELLER: David K Wickmark

10

11 The parties accept all of the terms and conditions in the above-designated Purchase and Sale Agreement with the following changes:

12 ☒ This is a SELLER counter offer. The SELLER reserves the right to withdraw this offer or accept any other offers prior to the receipt of a true copy of signed acceptance of this Counter Offer within the time frame specified herein.

13

14 ☐ This is a BUYER counter offer. The undersigned BUYER reserves the right to withdraw this offer at any time prior to the receipt of a true copy of signed acceptance of this Counter Offer within the time frame specified herein.

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16 Water rights 61-11989 and 61-11991 are not included in the sale of the property. All other terms to remain the same.

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40 To the extent the terms of this Counter Offer modify or conflict with any provisions of the Purchase and Sale Agreement including all prior Addendums, the terms in this Counter Offer shall control. All other terms of the Purchase and Sale Agreement including all prior Addendums not modified by this Counter Offer shall remain the same. Buyer and Seller acknowledge the down payment and/or loan amount on Page 1 of Purchase & Sale Agreement may change if purchase price is changed as part of this Counter Offer. If original offer has expired, has been revoked and/or acceptance is late, then mutual execution of this Agreement shall constitute consent to revive and retender the original offer. Upon its execution by both parties, this agreement is made an integral part of the aforementioned Agreement.

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47 If a signed acceptance is not delivered on or before (date): 09/25/2021 at 6:00 ☐ A.M. ☒ P.M.

48 this Counter Offer shall be deemed to have expired.

49

50 DELIVERY: Delivery shall be to the agent/broker working with the maker of the Counter Offer in person, by mail, facsimile or electronic transmission of any signed original document, and retransmission of any signed original document. Retransmission of any signed facsimile or electronic transmission shall be deemed to be the same as delivery of an original.

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53	SELLER	<u>David K Wickmark</u>	Date	<u>09/24/2021</u>	Time	<u>5:22 PM</u>	☐ A.M. ☒ P.M.
54		9/24/2021 5:22:33 PM MDT					
55	SELLER	<u>Christine A Wickmark</u>	Date	<u>10/08/2021</u>	Time	<u>3:58 PM</u>	☐ A.M. ☒ P.M.
56		10/8/2021 3:58:19 PM MDT					
57	BUYER	<u>Stewart Holmes</u>	Date	<u>09/24/2021</u>	Time	<u>10:12 PM</u>	☐ A.M. ☒ P.M.
58		9/24/2021 10:12:10 PM MDT					
59	BUYER	<u>Elayna Holmes</u>	Date	<u>09/24/2021</u>	Time	<u>9:50 PM</u>	☐ A.M. ☒ P.M.
60		9/24/2021 9:50:05 PM MDT					

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JULY 2019 EDITION

RE-13 COUNTER OFFER

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IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098

Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

February 10, 2022

DAVID K WICKMARK
2615 NE MEADOWLARK LN
MOUNTAIN HOME, ID 83647

RE: Transfer No. 85455
Water Right No(s). 61-11989, 61-11991

Dear Applicant(s):

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 MOUNTAIN HOME NEWS on 2/16/2022 and 2/23/2022. 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,

Jean Hersley
Technical Records Specialist

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85455

DAVID K WICKMARK, 2615 NE MEADOWLARK LN, MOUNTAIN HOME, ID 83647 has filed Application No. 85455 for changes to the following water rights within ELMORE County(s): Right No(s). 61-11989, 61-11991; 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:

The Department received an application for transfer from David Wickmark to change the point of diversion and place of use for groundwater rights 61-11989 and 61-11991, which authorize a total of 5 acres of irrigation when combined. The new place of use will be on a property adjacent to the current pou near N 18th E and Meadowlark Ln in Mountain Home, Elmore County. The new point of diversion will be an existing well on the property.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see

<http://www.idwr.idaho.gov/water-rights/transfers/search.html>

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, 322 E Front St, PO Box 83720, Boise ID 83720-0098 together with a protest fee of \$25.00 for each application on or before 3/7/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 2/16/2022 and 2/23/2022

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, February 10, 2022 3:31 PM
To: legaldept@mountainhomenews.com
Subject: Legal Notice Transfer 85455
Attachments: Legal Notice.docx

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper 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, PO Box 83720, Boise, Idaho, 83720-0098 before March 7, 2021. Your cooperation is appreciated.

Sincerely

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

Hersley, Jean

From: Hersley, Jean
Sent: Thursday, February 10, 2022 3:33 PM
To: Miller, Nick
Subject: Application for Transfer No. 85455
Attachments: tmpDEAC.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office on or before March 7, 2022.

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.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation on or before March 7, 2022. IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

December 13, 2021

RECEIVED
DEC 14 2021
DEPARTMENT OF
WATER RESOURCES

RECEIVED
DEC 13 2021
WATER RESOURCES
WESTERN REGION

Mr. Smith,

Regarding request to transfer 86455 and in response to your letter requesting additional information dated November 18 2021. The additional information that I offer is an explanation of the history and how we get to this transfer. I don't want to withdraw my application for transfer and am hopeful there is a provision in the law to account for these or similar circumstances. This transfer is more complicated than it seems at first glance. I'll keep it short but here's the back story:

I originally obtained water rights 61-11989 & 61-11991 in April 2003 (water right transfer #69816) and I understood at that time that I had 5 years to develop and use the rights and if I did not develop the rights within the 5-year period that I could "stop the clock" if I were to place the rights in the water bank and thus avoid the non-use forfeiture. I came to this belief as this is what was briefed during several IDWR meetings regarding the transfer of these and other water rights at that time. So in March 2007 I filed the paperwork to place the rights into the water bank, which as stated, I believed stopped the 5-year forfeiture clock. I followed up with IDWR via telephone after filing to ensure the water bank application was received and approved. I was told it was. I seem to recall this water bank idea was a new thing at the time. Maybe not though. In March 2011, about 4 years after the fact, I received a letter advising the water bank application was denied. Though I didn't irrigate with the water I did put it to beneficial use as stock water during this time raising approx. 200 hogs annually. These extenuating circumstances I should be considered regarding this transfer.

Thank you for your consideration


David Wickmark



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

November 18, 2021

DAVID WICKMARK
2615 NE MEADOWLARK LN
MOUNTAIN HOME, ID 83647

COPY

RE: Additional Information Request for Transfer 85455

Dear Applicant:

On October 25, 2021, you filed a transfer application #85455 to change the diversion points and places of use for water rights 61-11989 & 61-11991. Part of the transfer process is review for rights subject to forfeiture. Idaho Statute 42-222 states in part:

... (2) All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223, Idaho Code.

I am now trying to verify the water use on your land. The rights described above authorize a total irrigation of 5 acres when combined. Using aerial imagery and digital tools to measure irrigated lands found a surface area of 0.7 acres. Remote sensing tools from satellites in 2015 to 2021 were used to show the areas described as fallow within your application may be subject to forfeiture. **Evidence of irrigation use in these areas is needed to complete processing of the transfer application.**

Additionally, your application indicated that the water rights had undergone a period of 5 or more consecutive years of non-use due to being unaware that the water rights were not accepted into the Water Supply Bank. Idaho Statute 42-223 (included) outlines the exceptions or defenses to forfeiture. This explanation does not appear to be a valid defense to forfeiture according to Idaho Statute 42-223.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application may be approved with partial forfeiture or rejected without a timely written reply within the next thirty (30) days. Refunds are not issued for rejected applications. You may also withdraw the application with the form enclosed in order to receive a refund for the filing. Please contact me at 208-287-4913 if you need more information. Thank you for your attention to these matters.

Respectfully,

Tyler Smith
Senior Water Resource Agent
208.287.4913 phone
tyler.smith@idwr.idaho.gov

Enclosure(s): National Agriculture Imagery Program (NAIP) imagery map 2019
Idaho Statute §42-223
Withdrawal form