

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85513**

This is to certify that: **BASIC AMERICAN INC**
2999 OAK RD STE 800
WALNUT CREEK, CA 94597-2054

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>
22-2204	WR/DECREED	3/30/1961	2.660 cfs	1925.8 af	N/A	N/A	GROUND WATER
22-7391	WR/DECREED	2/23/1982	0.640 cfs	463.3 af	N/A	N/A	GROUND WATER

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>
22-2204	NO	YES	NO	NO	NO	NO
22-7391	NO	YES	NO	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>
22-2204	22-2204	2.660 cfs	1925.8 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
22-7391	22-7391	0.640 cfs	463.3 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.300 cfs	2389.1 af	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 21st day of January, 2022



Regional Manager

Transfer No. 85513

**Support Data
In File # 22-2204**

WATER RIGHT NO. 22-7391**As Modified by Transfer No. 85513**

In accordance with the approval of Transfer No. 85513, Water Right No. 22-7391 is now described as follows:

Right Holder: BASIC AMERICAN INC
2999 OAK RD STE 800
WALNUT CREEK, CA 94597-2054

Priority Date: 2/23/1982

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	0.640 cfs	463.3 af
			0.640 cfs	463.3 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNENE	Sec 19 Twp 06N Rge 40E	MADISON County
GROUND WATER	NWNENE	Sec 19 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWNENE	Sec 19 Twp 06N Rge 40E	MADISON County

PLACE OF USE: INDUSTRIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	19	X	X															

CONDITIONS OF APPROVAL

1. Industrial use is for potato processing and includes treatment of process water with fresh water. Waste water from the processing plant may be land applied to satisfy federal or state water quality requirements. Water diverted under this right shall not be used for land application unless the water is applied to land that has an appurtenant ground water right, which normally provides a full water supply for irrigation. Water diverted shall not be used for land application unless the water is first used in association with potato processing.
2. 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. 100.
3. Prior to the diversion and use of water under Transfer approval 85513, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 85513

WATER RIGHT NO. 22-7391
As Modified by Transfer No. 85513

CONDITIONS OF APPROVAL

4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.
5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. The well replaced through Transfer 85513, identified in the Department's records under Tag No. E0006987, shall be decommissioned (abandoned) in accordance with the standards set forth in the Department's Well Construction Rules.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
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.

WATER RIGHT NO. 22-2204**As Modified by Transfer No. 85513**

In accordance with the approval of Transfer No. 85513, Water Right No. 22-2204 is now described as follows:

Right Holder: BASIC AMERICAN INC
2999 OAK RD STE 800
WALNUT CREEK, CA 94597-2054

Priority Date: 3/30/1961

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	2.660 cfs	1925.8 af
			2.660 cfs	1925.8 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNENE	Sec 19 Twp 06N Rge 40E	MADISON County
GROUND WATER	NWNENE	Sec 19 Twp 06N Rge 40E	MADISON County
GROUND WATER	SWNENE	Sec 19 Twp 06N Rge 40E	MADISON County

PLACE OF USE: INDUSTRIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	40E	19	X	X															

CONDITIONS OF APPROVAL

1. Industrial use is for potato processing and includes treatment of process water with fresh water. Waste water from the processing plant may be land applied to satisfy federal or state water quality requirements. Water diverted under this right shall not be used for land application unless the water is applied to land that has an appurtenant ground water right, which normally provides a full water supply for irrigation. Water diverted shall not be used for land application unless the water is first used in association with potato processing.
2. 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. 100.
3. Prior to the diversion and use of water under Transfer approval 85513, the right holder shall install and maintain acceptable measuring devices at the authorized points of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

WATER RIGHT NO. 22-2204
As Modified by Transfer No. 85513

CONDITIONS OF APPROVAL

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6. The well replaced through Transfer 85513, identified in the Department's records under Tag No. E0006987, shall be decommissioned (abandoned) in accordance with the standards set forth in the Department's Well Construction Rules.
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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.

Attachment to Transfer Approval 85513

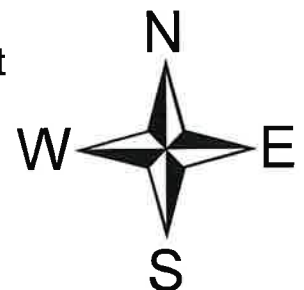
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 125 250 500 Feet



Date: 1/21/2022



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

January 21, 2022

BASIC AMERICAN INC
2999 OAK RD STE 800
WALNUT CREEK CA 94597-2054

Re: Transfer No: 85513
Water Right No(s): 22-2204, 22-7391

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,



Christina Henman
Administrative Assistant

Enclosure
CC:

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

MUFG UNION BANK NA
N CALIFORNIA BANKING GRP
200 PRINGLE AVE STE 500
WALNUT CREEK CA 94596-7374

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 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.: 85513
Water Right No(s): 22-2204, 22-7391**

**BASIC AMERICAN INC
2999 OAK RD STE 800
WALNUT CREEK CA 94597-2054**

**SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660**

**MUFG UNION BANK NA
N CALIFORNIA BANKING GRP
200 PRINGLE AVE STE 500
WALNUT CREEK CA 94596-7374**



**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.