

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85034**

This is to certify that: CLINE M WADDELL
5125 HWY 95
FRUITLAND, ID 83619

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>
65-22388	WR/DECREED	2/1/1951	0.500 cfs	N/A	N/A	25.0	BIG WHITLEY GULCH 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>
65-22388	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>
65-22388	65-22388	0.500 cfs	N/A	N/A	25.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.500 cfs	N/A	N/A	25.0		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 November, 2021.



NICK MILLER, Western Regional Manager

WATER RIGHT NO. 65-22388
As Modified by Transfer No. 85034

In accordance with the approval of Transfer No. 85034, Water Right No. 65-22388 is now described as follows:

Right Holder: CLINE M WADDELL
 5125 HWY 95
 FRUITLAND, ID 83619

Priority Date: 2/1/1951

Source: BIG WHITLEY GULCH CREEK **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	0.500 cfs 0.500 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WHITLEY GULCH CREEK SENE Sec 16 Twp 07N Rge 05W PAYETTE 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	
07N	05W	16				11.0									14.0				25.0

POU Total Acres: 25.0

CONDITIONS OF APPROVAL

1. This right is a split from former right 65-2548.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Big Whitley Gulch Creek in the T07N, R05W, Sec. 15, NESW.
4. Use of this right is combined with water from Black Canyon Irrigation District.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 85034

WATER RIGHT NO. 65-22388
As Modified by Transfer No. 85034

CONDITIONS OF APPROVAL

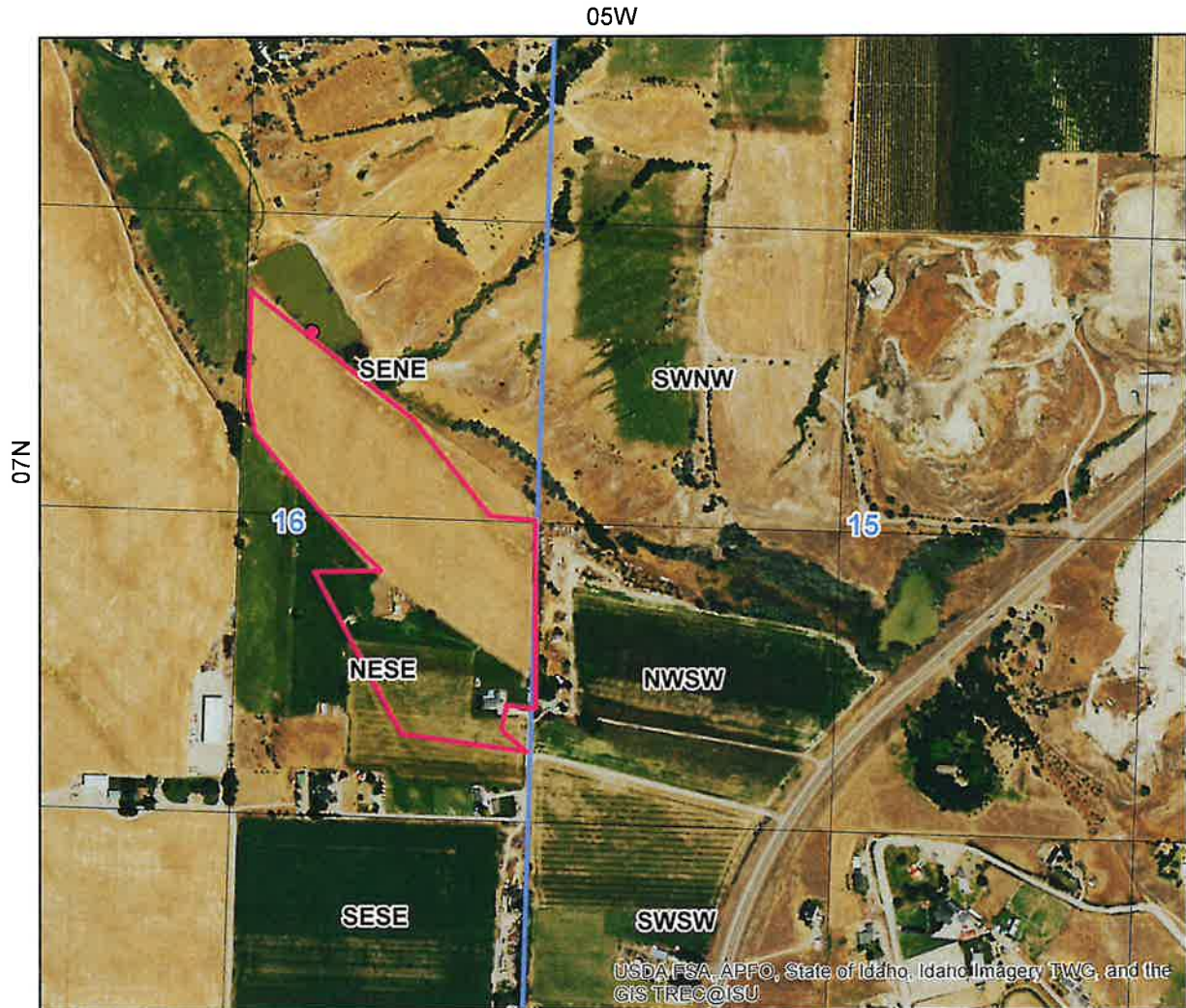
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



Attachment to Transfer No. 85034

65-22388

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



- Transfer POD
- Transfer POU
- Townships
- PLS Sections
- Quarter Quarters

0 0.1 0.2 0.4 Miles





Governor Brad Little

Director Gary Spackman

November 24, 2021

CLINE M WADDELL
5125 HWY 95
FRUITLAND ID 83619

RE: Transfer No: 85283
Water Right No.: 67-10311

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 concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,


DENISE LAUERMAN

for Nick Miller
Western Regional Manager

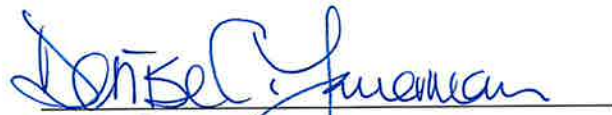
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2021, I served a true and correct copy of the foregoing PRELIMINARY ORDER (Approved Transfer) by U.S. Mail, postage prepaid, to the following:

Re: Transfer No.: 85034
Water Right No.: 65-22388

CLINE M WADDELL
5125 HWY 95
FRUITLAND ID 83619



Denise Lauerman
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

TO: Transfer No. 85034
FROM: Anna Kaiser
DATE: October 7, 2021
RE: Evaluation of Application

The transfer proposes moving the POD of water right no. 65-22388 approximately 0.6 miles downstream from its current location on Big Whitley Gulch.

The site is located in Fruitland, ID, just south of Big Whitley Gulch, approximately half of a mile east of US Hwy 95.

Contact person for the transfer is applicant Cline Waddell, 5125 Hwy 95, Fruitland, ID 83619. clinem@fmtc.com. (208)-452-5013.

Deviations from Transfer Policy Standards

The transfer application lists the proposed POD in the SESENE. Per Department standards, the POD location will be data entered as the SENE.

Summary of Information Submitted

Authority to File:

Cline Waddell (applicant) is the current owner of the right involved in this transfer. The applicant also owns the property appurtenant to the POU and proposed POD of the right.

Water Right Validity:

The partial decree for water right no. 65-22388 was issued on July 26, 2002. This right is presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, or other evidence. Evidence of beneficial use does not need to be added to the file it is an IDWR product available to other staff.

Injury to Other Water Rights:

Since the transfer proposed a POD downstream of the current POD, injury to other rights should not occur. The applicant currently shares the POD with one other water user and the proposed POD would be shared with one other water user. Both users were specifically notified of this transfer proposal via letter prior to the advertising period. Neither water user protested the transfer, so the Department can reasonably assume surrounding water users do not fear injury as a result of this transfer.

Enlargement of Use:

The transfer proposes no changes in the nature or place of use, so enlargement is not a concern.

Local Public Interest:

No evidence has been submitted suggesting the transfer proposes changes at odds with the local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

Discussion

Prior to the approval of this transfer, the POU shape of 63-22388 was updated to match the Department's map on file. The memo located within the transfer file titled "POU Clarification," dated September 1, 2021, contains more information regarding this update.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

RECEIVED

SEP 27 2021

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }

County of Payette }

M Brooke Watkins

Of Payette, Payette County, Idaho, being

First duly sworn, deposes and says:

- 1) That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not party to the above entitled action.
- 2) That I am the representative of the Argus Observer, a daily newspaper published in the County of Payette and State of Idaho; that the said newspaper is in general circulation in the said County of Payette, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
- 3) That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:

09/15/2021 09/22/2021

Legal # 435327

CHANGE OF WATER RIGHT

L-435327

M Brooke Watkins

State of Idaho }

County of Payette }

On this 22nd day of September in the year 2021

Before me a Notary Public personally appeared.

M Brooke Watkins

known or identified to me to be

the person whose name is subscribed to the within instrument, and being by me first duly sworn,

declared that the statements therein are true, and

acknowledge to me that he/she executed the same.

NOTICE OF PROPOSED
CHANGE OF
WATER RIGHT
TRANSFER NO. 85034

CLINE M WADDELL,
5125 HWY 95,
FRUITLAND, ID 83619
has filed Application No.
85034 for changes to the
following water rights
within PAYETTE County
(s): Right No(s). 65-22388;
to see a full description of
these rights and the
proposed transfer, please
see <https://research.idwr.idaho.gov/apps/water-rights/querynewtransfers>.
The purpose of the
transfer is to change a
portion of the above rights
as follows:

The purpose of the
transfer is to move the
POD of water right
65-22388 approximately
0.6 miles downstream of
the current POD on Big
Whitley Gulch. Water will
be used at the current
place of use
approximately 1 mile east
of the Snake River and
approximately 0.5 miles
northwest of the
intersection of Glenway
Ave. and US Hwy 95.

For additional information
concerning the property
location, contact Western
Region office at (208)334-
2190. 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, Western
Region, 2735 W AIRPORT
WAY, BOISE ID 83705-
5082 together with a
protest fee of \$25.00 for
each application on or
before 10/4/2021. The
protestant must also send
a copy of the protest to
the applicant.

GARY SPACKMAN,
Director

Legal Number 435327
September 15, 22, 2021

Yvonne Dee Lee

Notary Public for Idaho
Residing at Payette County
My Commission expires *

November 4, 2025

YVONNE DEE LEE
Notary Public - State of Idaho
Commission Number 62548
My Commission Expires Nov 4, 2025

02-1-1503-032
 RETURN TO SENDER
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TR 85034

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 FRUITLAND, ID 83619

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RECEIVED

SEP 20 2021

WATER RESOURCES
 WESTERN REGION

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