

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84873**

This is to certify that: **STEVE GOWER AND  
TRACY DUNLAP  
PO BOX 644  
BELLEVUE, ID 83313**

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>  |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|----------------|
| 37-21842           | WR/DECREED          | 9/25/1954            | 0.100 cfs             | 17.5 af                 | N/A               | 5.0                | GROUND WATER   |
| 37-21849           | WR/DECREED          | 3/24/1883            | 0.080 cfs             | N/A                     | N/A               | 5.0                | BIG WOOD RIVER |
| 37-21866           | WR/DECREED          | 7/10/1884            | 0.005 cfs             | N/A                     | N/A               | 5.0                | BIG WOOD RIVER |
| 37-21883           | WR/DECREED          | 9/18/1885            | 0.050 cfs             | N/A                     | N/A               | 5.0                | BIG WOOD RIVER |
| 37-21900           | WR/DECREED          | 6/12/1886            | 0.005 cfs             | N/A                     | N/A               | 5.0                | BIG WOOD RIVER |
| 37-21917           | WR/DECREED          | 6/15/1891            | 0.130 cfs             | N/A                     | N/A               | 5.0                | BIG WOOD RIVER |

**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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-21842              | NO           | YES        | YES        | NO             | YES                  | YES                  |
| 37-21849              | NO           | NO         | YES        | NO             | YES                  | YES                  |
| 37-21866              | NO           | NO         | YES        | NO             | YES                  | YES                  |
| 37-21883              | NO           | NO         | YES        | NO             | YES                  | YES                  |
| 37-21900              | NO           | NO         | YES        | NO             | YES                  | YES                  |
| 37-21917              | NO           | NO         | YES        | NO             | YES                  | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-21842               | 37-21842                         | 0.100 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-21849               | 37-21849                         | 0.080 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-21866               | 37-21866                         | 0.005 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-21883               | 37-21883                         | 0.050 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-21900               | 37-21900                         | 0.005 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-21917               | 37-21917                         | 0.130 cfs            | 11.6 af                | N/A               | 5.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.370 cfs</b>     | <b>11.6 af</b>         | <b>N/A</b>        | <b>N/A</b>         |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

**SUPPORT DATA**

Transfer No. 84873

**IN FILE # 37-21842**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT  
TRANSFER NO. 84873

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 26<sup>th</sup> day of November, 2021.

  
\_\_\_\_\_  
Southern Region Manager



# **WATER RIGHT NO. 37-21842** **As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21842 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 9/25/1954

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.100 cfs             |                         |
|                       |             |           | 0.100 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      NENE                      Sec 13 Twp 01N Rge 18E BLAINE County

**PLACE OF USE: RECREATION 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 |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

Transfer No. 84873

**WATER RIGHT NO. 37-21842**  
**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 37-21849****As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21849 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 3/24/1883

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <b>BENEFICIAL USE</b> | <b>From</b> | <b>To</b> | <b>Diversion Rate</b> | <b>Diversion Volume</b> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.080 cfs             |                         |
|                       |             |           | 0.080 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

BIG WOOD RIVER NESWNW Sec 36 Twp 02N Rge 18E BLAINE County

**PLACE OF USE: RECREATION STORAGE**

|     |     |     | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

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**WATER RIGHT NO. 37-21849**  
**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Point of diversion described above is the headgate for District 45 canal.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 37-21866****As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21866 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 7/10/1884

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <b>BENEFICIAL USE</b> | <b>From</b> | <b>To</b> | <b>Diversion Rate</b> | <b>Diversion Volume</b> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.005 cfs             |                         |
|                       |             |           | 0.005 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

BIG WOOD RIVER      NESWNW      Sec 36 Twp 02N Rge 18E BLAINE County

**PLACE OF USE: RECREATION 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 |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

Transfer No. 84873

**WATER RIGHT NO. 37-21866**

**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Point of diversion described above is the headgate for District 45 canal.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 37-21883****As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21883 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 9/18/1885

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.050 cfs             |                         |
|                       |             |           | 0.050 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

BIG WOOD RIVER      NESWNW      Sec 36 Twp 02N Rge 18E BLAINE County

**PLACE OF USE: RECREATION 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 |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

Transfer No. 84873

**WATER RIGHT NO. 37-21883**  
**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Point of diversion described above is the headgate for District 45 canal.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 37-21900**  
**As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21900 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 6/12/1886

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.005 cfs             |                         |
|                       |             |           | 0.005 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

BIG WOOD RIVER      NESWNW      Sec 36 Twp 02N Rge 18E BLAINE County

**PLACE OF USE: RECREATION 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 |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

Transfer No. 84873

**WATER RIGHT NO. 37-21900**  
**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Point of diversion described above is the headgate for District 45 canal.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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. 37-21917****As Modified by Transfer No. 84873**

In accordance with the approval of Transfer No. 84873, Water Right No. 37-21917 is now described as follows:

**Right Holder:** TRACY DUNLAP AND  
STEVE GOWER  
PO BOX 644  
BELLEVUE, ID 83313

**Priority Date:** 6/15/1891

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <b>BENEFICIAL USE</b> | <b>From</b> | <b>To</b> | <b>Diversion Rate</b> | <b>Diversion Volume</b> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| RECREATION STORAGE    | 01/01       | to 12/31  |                       | 11.6 af                 |
| DIVERSION TO STORAGE  | 04/15       | to 10/31  | 0.130 cfs             |                         |
|                       |             |           | 0.130 cfs             | 11.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

BIG WOOD RIVER NESWNW Sec 36 Twp 02N Rge 18E BLAINE County

**PLACE OF USE: RECREATION 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 |        |
| 01N | 18E | 13  | X  |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |    | 0      |

**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. 37.
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 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 authorize total annual storage volume of 81.9 acre-feet, 70.3 acre-feet to be used for the initial filling or carryover storage of the reservoir and 11.6 acre-feet for the replacement of losses caused by seepage and evaporation.
4. Right Nos. 37-510A and 37-685D are also used for storage of water in the pond for recreation. The pond used for storage of water for recreation under 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900 and 37-21917 shall not exceed a total capacity of 70.3 acre-feet or a total surface area of 14.9 acres.

Transfer No. 84873

**WATER RIGHT NO. 37-21917**  
**As Modified by Transfer No. 84873**

**CONDITIONS OF APPROVAL**

5. Rights 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 authorize the diversion of an annual total of 11.6 acre-feet to be used for the storage of water in the pond to replace losses caused by evaporation from the pond.
6. Rights Nos. 37-510A, 37-685D, 37-21842, 37-21849, 37-21866, 37-21883, 37-21900, and 37-21917 are limited to a combined diversion rate of 4.40 cfs.
7. The right holder shall maintain an earthen liner in the pond to minimize seepage losses.
8. The right holder shall make full beneficial use of all surface water rights available to the right holder for the recreational pond. The right holder shall limit the diversion of ground water under Water Right 37-21842 to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to supply the recreation pond authorized under these rights.
9. Point of diversion described above is the headgate for District 45 canal.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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 # 84873**  
37-21842

This map depicts the RECREATION STORAGE 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.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.075 0.15 0.3 Miles

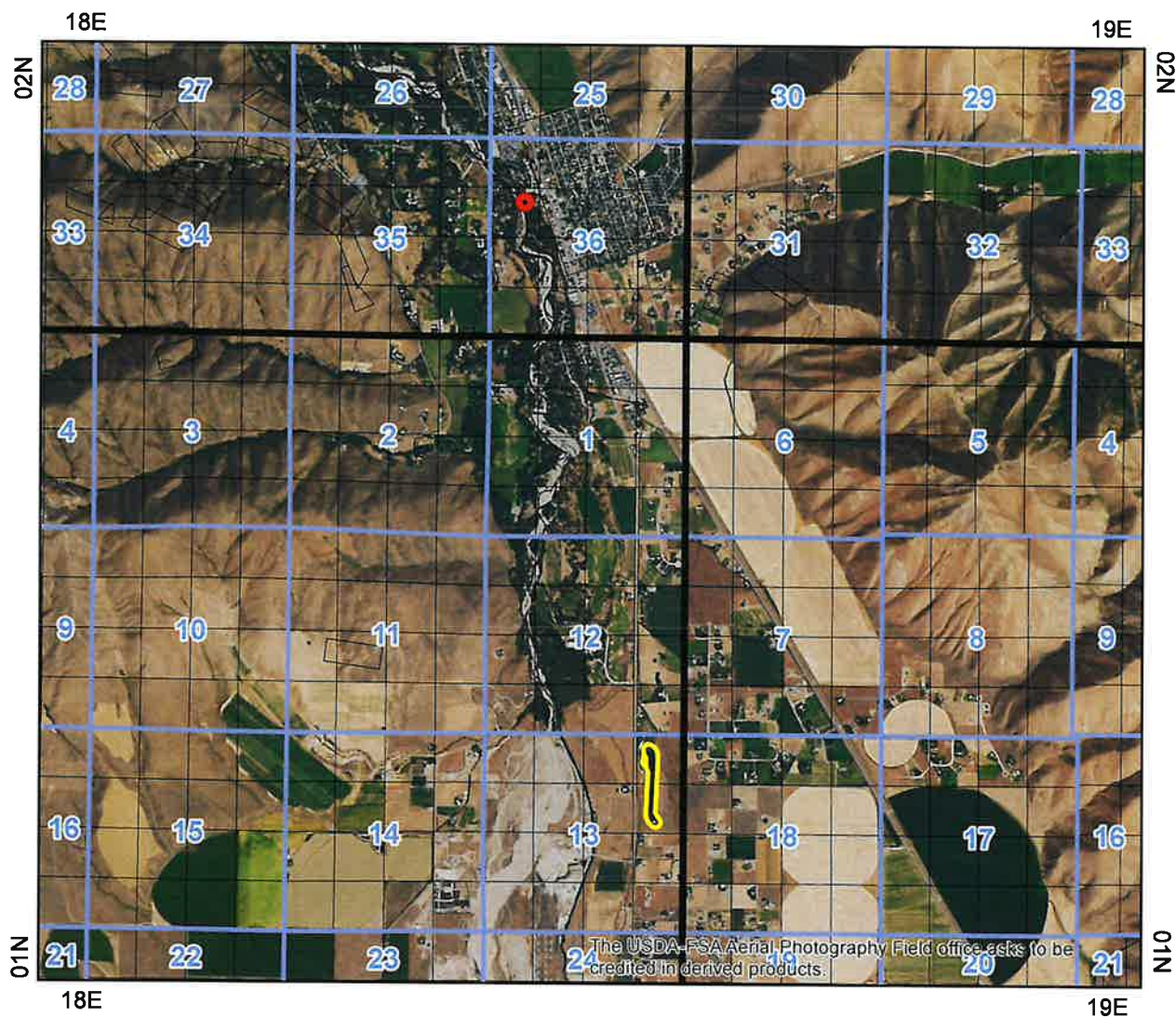


State of Idaho  
Department of Water Resources

# Attachment to Transfer # 84873

37-21849, 37-21866, 37-21883, 37-21900, and 37-21917

This map depicts the RECREATION STORAGE place of use boundary for these water rights 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 0.5 1 2 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](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Gary Spackman**

November 29, 2021

STEVE GOWER  
TRACY DUNLAP  
PO BOX 644  
BELLEVUE ID 83313

Re: Transfer No: 84873

Water Right No(s): 37-21842, 37-21849, 37-21866, 37-21883, 37-21900,  
37-21917

**Transfer Approval Notice**

Dear Water Right Holder(s) and other Interested Persons:

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,



Corey Skinner  
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC  
C/O ZACH LATHAM  
2016 WASHINGTON ST N STE 4  
TWIN FALLS ID 83301-3082

WATER DISTRICT 37  
KEVIN LAKEY  
107 W 1ST ST  
SHOSHONE ID 83352

JUSTIN FLOOD STEVENSON  
C/O ALBERT P BARKER  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139

MICHAEL LOVAS  
C/O ALBERT P BARKER  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139

## CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021 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.: 84873

Water Right No(s): 37-21842, 37-21849, 37-21866, 37-21883, 37-21900,  
37-21917

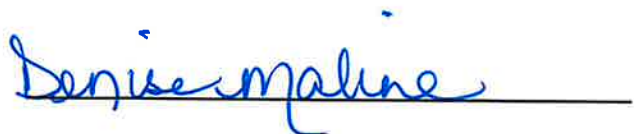
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BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE ID 83701-2139



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:** November 23, 2021  
**To:** Transfer 84873 File  
**From:** Bill Mills  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application proposes changing five Big Wood River rights and one ground water right (totaling 0.375 cfs) currently used to irrigate 5 acres located approximately 2.5 to 2.6 miles south and 0.4 to 0.5 miles south of Bellevue to recreation storage uses associated with an existing water storage facility located approximately 2.7 to 3.2 miles south and 0.2 to 0.3 miles east of Bellevue. The application proposes changing the ground water right's point of diversion from the current location approximately 2.5 miles south and 0.8 miles east of Bellevue to a proposed well near the storage facility location approximately 2.7 to 3.2 miles south and 0.2 to 0.3 miles east of Bellevue. The five Big Wood River rights will continue to be diverted at the District Canal near Bellevue.

The change in nature of use analysis from irrigation to recreation storage was based on an acre to volume conversion utilizing the precipitation deficit value for high management pasture grass (2.31 acre-feet per acre a year). There may have been a question concerning the validity of these water rights as the parcel they are appurtenant to does not appear to have been irrigated (beyond 0.5 acres) in available aerial imagery. However, all of the rights in the transfer were decreed in 2010 and have been leased to the water supply bank since 2016. Since these rights have been protected from forfeiture since their decree date, the change in nature of use analysis is acceptable and the volume has been reduced by 5.9 acre feet in the conversion process.

It should be noted that the transfer application indicates the well to be used for diverting the water at the new location is an existing well. However, correspondence from the applicant's representative indicated the well is proposed (see email correspondence from Zach Latham dated 4/13/2021), and the well was advertised as a proposed well, although the transfer application was not updated to reflect that change. Additionally, the wells location was listed as in the NWNENE of Sec.13, Twp 01N, Rge 18E on the transfer application. Email correspondence from the applicant's representative indicated this was the wrong 10 acre tract designation and it was actually planned to be located in the SWNENE (see email from Zach Latham dated 4/7/2021). Then it was requested that we drop the 10 acre description altogether (see email from Zach Latham dated 4/8/2021 and updated map attachment #7a). Again, the transfer application was not updated to reflect those requested changes (although map attachment #7a was). However, the advertising described the updated proposed well location, and the transfer data entry reflects those changes also.

There was a pending Water Supply Bank (WSB) lease for these water rights at the time the transfer application was submitted. The lease proposed to utilize the water right's in the same manner the transfer application proposed. After contacting the WSB, it was decided the lease should be put on hold and then move forward with processing the transfer (email dated 4/14/2021).

All PODs and POU's are in Water District 37 and Watermaster comments were solicited, and no comments were received.

The transfer was protested, and the protests were resolved and withdrawn through a stipulated agreement that requests specific conditions be placed on the water rights in the transfer.

- **Authority to File:** Applicants are listed as the current owners of all water rights included in this transfer. A contract of sale was provided indicating the owners of the recreation storage facility will file for change of ownership of the water rights in this transfer after the transfer is approved.
- **Water Right Validity:** All water rights in this transfer were decreed in the SRBA prior to 9/25/2010. The water rights have been leased to the water supply bank since 2016 and as such, are currently protected from forfeiture.
- **Injury to Other Water Rights:**  
None anticipated.
- **Enlargement of Use:**  
There is a decrease in volume as a result of the change in nature of use process which precludes potential enlargement of the changed portion of the water right.
- **Local Public Interest:**  
No issues anticipated.
- **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**