

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 02 2021

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Department of Water Resources
Eastern Region

Name of Applicant(s) Northwestern Band of Shoshone Nation Phone (435) 734-2286
Mailing address 2575 Commerce Way, Ogden, UT 84401 Email cparry@nwbsoshone.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 Brian Andrew Phone (801) 362-1844
Mailing address Hansen, Allen & Luce, Inc., 859 W South Jordan Parkway, Suite 200 Email brian.andrew@halengineers.co

- ☐ 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.

 Chase Parry, finance/accounting officer 6/25/2021
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.O.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**.
The purpose of this transfer is to change the place of use to land owned by the applicant. Three points of diversion(POD) were removed for spring sources not on the applicant's land and two POD were added on Battle Creek since it is listed as the heretofore source without locations for POD on the creek.

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 or Part ☒ ☐	13-7990	0.73 cfs	Irrigation	4/20 to 9/30	Battle Creek & Bear River
☒ ☐	13-7991	0.59 cfs	Irrigation	4/20 to 9/30	Springs & Bear River
☒ ☐	13-7991	0.59 cfs	Diversion to Storage	1/01 to 12/31	Springs & Bear River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.32 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.32 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	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
No		SW	NE	SW	8	15 S	39 E	Franklin	Tank Spring	
No		NE	SE	NE	8	15 S	39 E	Franklin	Unnamed Spring	
Yes			NW	SW	4	15 S	39 E	Franklin	Battle Creek	
Yes			SE	NE	8	15 S	39 E	Franklin	Battle Creek	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15S	39E	8	27				1.8		24		18	30.2		4					105
15S	39E	9						12											12
Total Acres (for irrigation use)																			117

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:
Future diversion will continue as historical diversion from Battle Creek and springs with source water directed through ditches for flood irrigation. The applicant has been leasing the water.

- b. Who owns the property at the point(s) of diversion? Northwestern Band of the Shoshone Nation
 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:

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:

- 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:

- 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:

IDAHO Department of Water Resources



IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to [call ahead for an appointment](#).

WATER RIGHT REPORT

3/1/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 13-7990

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORTHWESTERN BAND OF SHOSHONE NATION 707 N MAIN ST BRIGHAM CITY, UT 84302-1449 4357342286
Original Owner	S C CHADWICK

Priority Date: 05/01/1885

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BATTLE CREEK	BEAR RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/20	09/30	0.73 CFS	
Total Diversion			0.73 CFS	

Location of Point(s) of Diversion:

BATTLE CREEK | Sec. | Township | Range | County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN 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>
15S	39E	17		NENE	40		NWNE	18		SWNE	19		SENE	40

Total Acres: 117

Conditions of Approval:

1. || P/D INCOMPLETE.

Dates:

Licensed Date:

Decreed Date: 07/14/1920

Enlargement Use Priority Date:

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:

Owner Name Connector:

Water District Number: 13M

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

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



IDWR offices are open to the public and following the CDC guidelines for wearing masks and observing social distancing. For in-person visits, we encourage you to [call ahead for an appointment](#).

WATER RIGHT REPORT

3/1/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 13-7991

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORTHWESTERN BAND OF SHOSHONE NATION 707 N MAIN ST BRIGHAM CITY, UT 84302-1449 4357342286
Original Owner	S C CHADWICK
Priority Date: 07/11/1883	
Basis: Decreed	
Status: Active	

<u>Source</u>	<u>Tributary</u>
HAW BUSH SPRING	BATTLE CREEK
SPRING	BATTLE CREEK
TANK SPRING	BATTLE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/20	09/30	0.59 CFS	
DIVERSION TO STORAGE	01/01	12/31	0.59 CFS	
Total Diversion			0.59 CFS	

Location of Point(s) of Diversion:

SPRING	SENE	Sec. 08	Township 15S	Range 39E	FRANKLIN County
TANK SPRING	NESW	Sec. 08	Township 15S	Range 39E	FRANKLIN County
TANK SPRING	SESW	Sec. 08	Township 15S	Range 39E	FRANKLIN County
HAW BUSH SPRING	NWNE	Sec. 16	Township 15S	Range 39E	FRANKLIN County

HAW BUSH SPRING|SWNE|Sec. 16|Township 15S|Range 39E|FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
15S	39E	17		NENE	40		NWNE	18		SWNE	19		SENE	40

Total Acres: 117

Conditions of Approval:

1. || PORTION OF RT. STORED IN RESERVOIR ON P/U.

Dates:

Licensed Date:

Decreed Date: 07/14/1920

Enlargement Use Priority Date:

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:

Owner Name Connector:

Water District Number: 11

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

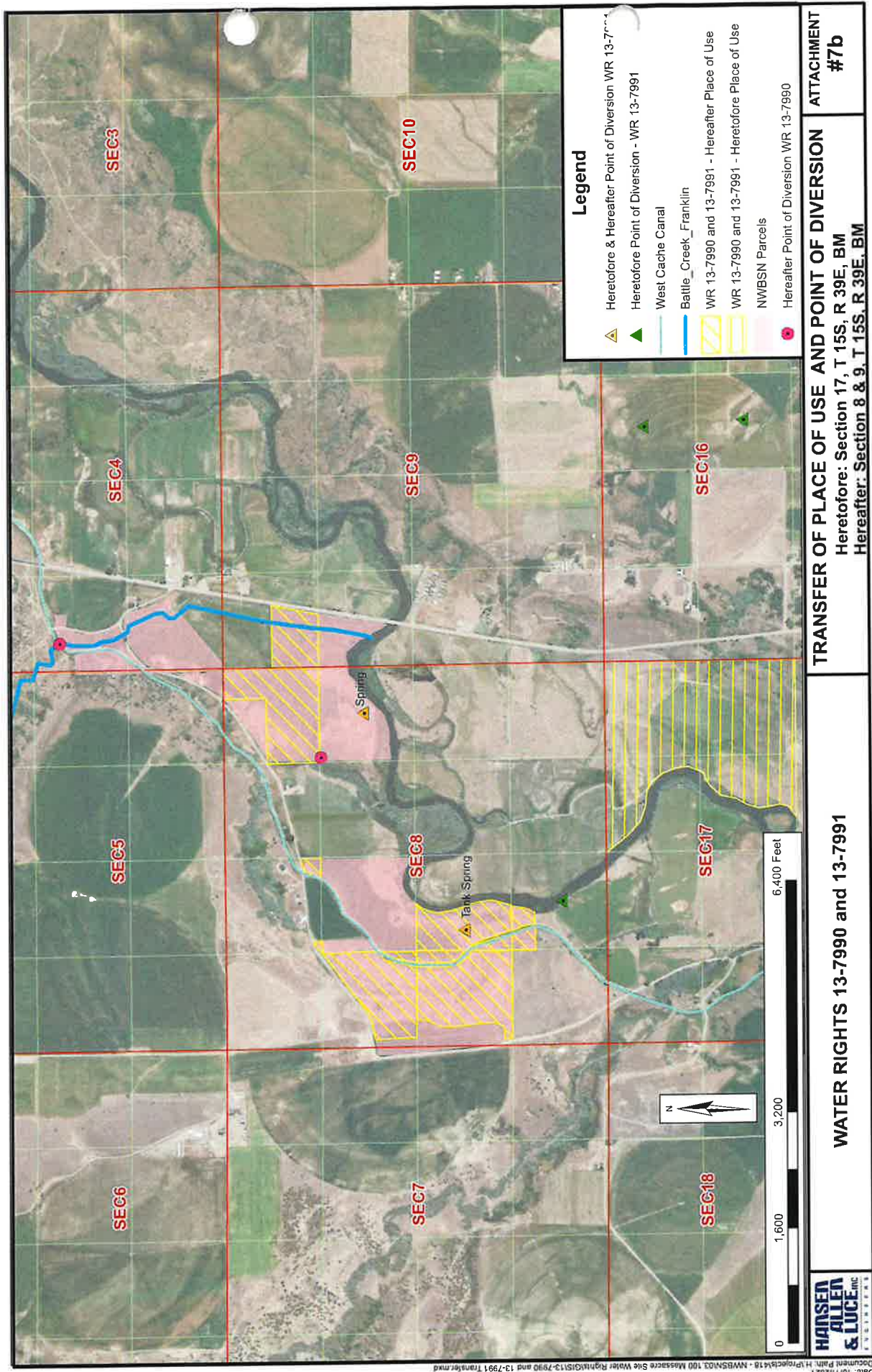
Swan Falls Trust or Nontrust:

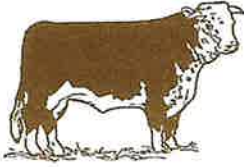
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False





Bosen Land & Livestock, LLC

2545 West 2400 North, Preston, Idaho 83263

Phone: 1 208-852-1726

9/30/2021

COOPER FRIZZ
IDWR

IDAHO FALLS, IDAHO

Cooper,

I hope you are doing well. I am writing in regards to our work on Battle Creek Water right # 13-2123.

In 2018 Bosen Land & Livestock LLC purchased river-bottom ground from the Northwest band of the Shoshone Tribe. Part of that purchase included water right # 13-2123.

In 2020 in an attempt to create clarity over place of use, the tribe divided the right and placed some of its use on their property. You work with Bosen LLC and the Tribe since then has resulted in the water being returned and a transfer made back onto Bosen land. This letter confirms that Bosen Land & Livestock LLC agree with the water right place of use as it now stands and thanks you and the Tribe for your efforts to return the place of use to where it was originally intended at purchase. As well as make the transfer necessary to make it legal and binding.

Thank you for your help

Sam Bosen
Manager

Bosen Land & Livestock LLC

Preston, IDAHO

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OCT 04 2021

Department of Water Resources
Eastern Region

85241

83263



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

October 20, 2021

NORTHWESTERN BAND OF SHOSHONE NATION
2575 COMMERCE WAY
OGDEN, UT 84401

RE: **Transfer No. 85241**

Water Right No(s). 13-7990, 13-7991

Transfer No. 85239

Water Right No(s). 13-7969, 13-7970

Dear Applicant:

The Department of Water Resources has received your water right transfer applications. Please refer to the transfer number referenced above in all future correspondence regarding these transfers.

A legal notice of the applications has been prepared and is scheduled for publication in the PRESTON CITIZEN on 10/27/2021 and 11/3/2021. Protests to these applications may be submitted for a period ending ten (10) days after the second publication.

If the applications are protested, you will be sent a copy of each protest. All protests must be resolved before the applications 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 applications are not protested, the Department will process your applications and notify you of any action taken on the applications. If your applications are approved, the Department will send you a copy of the approval documents.

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

Sincerely,

Christina Henman
Administrative Assistant

CC:

HANSEN, ALLEN & LUCE INC.
C/O BRIAN ANDREW
859 W SOUTH JORDAN PARKWAY
SUITE 200
SOUTH JORDAN, UT 84095

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 20, 2021 12:09 PM
To: legals@prestoncitizen.com
Subject: Legal Notice for Preston Citizen
Attachments: 85239, 85241 Preston Citizen.docx

LEGAL NOTICE DEPARTMENT
PRESTON CITIZEN
PO BOX 472
PRESTON, ID 83263

RE: Transfer No. 85239, 85241
Water Right No(s). 13-7969, 13-7970, 13-7990, 13-7991

Dear Legal Notice Department:

Please publish the enclosed legal notice 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 before 11/15/2021. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 85239

NORTHWESTERN BAND OF SHOSHONE NATION, 2575 COMMERCE WAY, OGDEN, UT 84401 has filed Application No. 85239 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-7969, 13-7970; 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: change point of diversion, add points of diversion, and change place of use. The proposed points of diversion are in SESWSW and NWNWSW Sec 4, and NWSENE Sec 8, T15S R39E for 1.43 cfs from Battle Creek. The proposed place of use is in Sec 4, 5, 8, and 9, T15S R39E for 100 acres.

TRANSFER NO. 85241

NORTHWESTERN BAND OF SHOSHONE NATION, 2575 COMMERCE WAY, OGDEN, UT 84401 has filed Application No. 85241 for changes to the following water rights within FRANKLIN County(s): Right No(s). 13-7990, 13-7991; 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: change points of diversion, add points of diversion, and change place of use. The proposed points of diversion are in NWSW Sec 4 and SENE Sec 8, T15S R39E for 0.73 cfs from Battle Creek; and SWNESW and NESENE Sec 8, T15S R39E for 0.59 cfs from Springs. The proposed place of use is in Sec 8 and 9, T15S R39E for 117 acres.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 11/15/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/27/2021 and 11/3/2021