

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

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

Name of Applicant(s) Northwestern Band of Shoshone Nation Phone 435 734 2286
Mailing address 2575 Commerce Way, Ogden, UT 84401 Email cparry@nwbshoshone.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 _____
Mailing address Hanse, Allen & Luce, Inc., 859 W South Jordan Parkway, Suite 200 Email brian.andrew@halengineers.c

- ☐ 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.

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

1. ☒ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

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.2**.

This transfer changes the place of use and the point of diversion, and adds points of diversion to, rights 13-7969 and 13-7970.

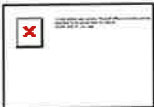
Fritz, Cooper

From: Brian Andrew <brian.andrew@halengineers.com>
Sent: Monday, December 13, 2021 11:56 AM
To: Fritz, Cooper; Chase Parry - NWBSN
Subject: Re: Updated Page 2 of NWBSN Transfer Application

This looks good Cooper

Brian J. Andrew, M.S., P.E.
Principal

HANSEN, ALLEN & LUCE, INC.
859 W. South Jordan Pkwy. Ste. 200
South Jordan, UT 84095
Office: 801-566-5599
Mobile: 801-362-1844
www.halengineers.com



Confidentiality Notice: This email message (and any attachments) is confidential and may be privileged. If you believe it has been sent to you in error, please notify the sender and delete this email.

From: Fritz, Cooper <Cooper.Fritz@idwr.idaho.gov>
Sent: Monday, December 13, 2021 10:12:30 AM
To: Brian Andrew <brian.andrew@halengineers.com>
Subject: Updated Page 2 of NWBSN Transfer Application

CF
Good
Good Morning Brian,

Please let me know if you are satisfied with the amended Page 2 of the attached Transfer Application.

Thanks!

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@nwbshoshone.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.c

- ☐ 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 ☐ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Change Title
- 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 **Part1A.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**.
See Attachment Part 1A.2

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 ☒ ☐	13-7969	0.33 cfs	Irrigation	4/20 to 9/30	Battle Creek & Bear River
☒ ☐	13-7970	1.1 cfs	Irrigation	4/20 to 9/30	Battle Creek & Bear River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.43 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.43 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		SE	SW	SW	4	15 S	39 E	Franklin	Battle Creek	
Yes		NW	SE	NE	8	15 S	39 E	Franklin	Battle Creek	
Yes		NW	NW	SW	4	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	6			23				31									60
15S	39E	9							9										9
15S	39E	4										7	20						27
15S	39E	5																4	4
Total Acres (for irrigation use)																			100

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 with 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 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:



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. 13-7969

<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	OSCAR M SEAMONS RT 2 PRESTON, ID

Priority Date: 05/01/1907

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	0.33 CFS	
Total Diversion			0.33 CFS	

Location of Point(s) of Diversion:

BATTLE CREEK | SWSW | Sec. 04 | Township 15S | Range 39E | FRANKLIN 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	8		SENE	36									
				SENW	28									
				NWSE	24.5									
		9		NWSW	11.5									

Total Acres: 100

Conditions of Approval:

1. X35 Rights 13-7969 and 13-7970 when combined shall not exceed the irrigation of 100 acres.

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

Combined Acres Limit: 100

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:



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. 13-7970

<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	OSCAR M SEAMONS RT 2 PRESTON, ID

Priority Date: 03/03/1913

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	1.1 CFS	
Total Diversion			1.1 CFS	

Location of Point(s) of Diversion:

BATTLE CREEK | SWSW | Sec. 04 | Township 15S | Range 39E | FRANKLIN 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	8		SENE	36									
				SENE	28									
				NWSE	24.5									
		9		NWSW	11.5									

Total Acres: 100

Conditions of Approval:

1. X35 Rights 13-7969 and 13-7970 when combined shall not exceed the irrigation of 100 acres.

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

Combined Acres Limit: 100

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

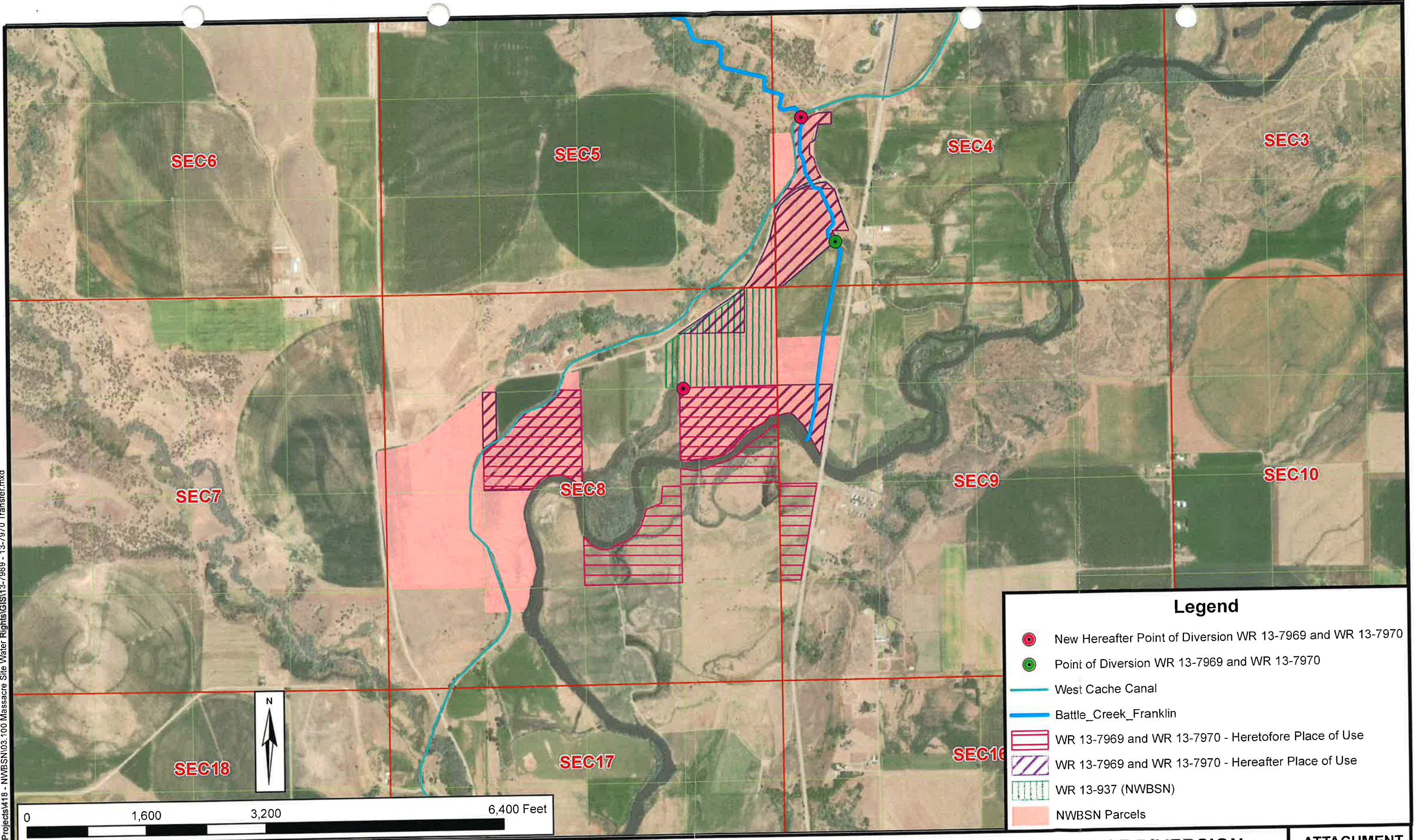
Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Date: 3/1/2021
Document Path: H:\Projects\418 - NWBSN\03.100 Massacre Site Water Rights\GIS\13-7969 - 13-7970 Transfer.mxd



**HANSEN
ALLEN
& LUCE, inc**
ENGINEERS

WATER RIGHTS 13-7969 and 13-7970

TRANSFER OF PLACE OF USE AND POINT OF DIVERSION
Heretofore: Section 8 & 9, T 15S, R 39E, BM
Hereafter: Section 8, 9, 4, & 5, T 15S, R 39E, BM

**ATTACHMENT
#7b**

85239



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