

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84997**

This is to certify that: BUFFALO RIVER WATER ASSN INC
PO BOX 4376
POCATELLO, ID 83205-4376

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>
21-7442	WR/LICENSE	8/19/1989	0.280 cfs	84.0 af	N/A	N/A	GROUND WATER
21-7583	WR/LICENSE	6/22/1998	0.280 cfs	60.0 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
21-7442	NO	NO	YES	NO	NO	NO
21-7583	NO	NO	YES	YES	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>
21-7442	21-7442	0.280 cfs	84.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
21-7583	21-7583	0.280 cfs	60.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.280 cfs	144.0 af	N/A	N/A		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 20th day of August, 2021



Regional Manager

Support Data
In File # 21-7442

Transfer No. 84997

WATER RIGHT NO. 21-7583**As Modified by Transfer No. 84997**

In accordance with the approval of Transfer No. 84997, Water Right No. 21-7583 is now described as follows:

Right Holder: BUFFALO RIVER WATER ASSN INC
PO BOX 4376
POCATELLO, ID 83205-4376

Priority Date: 6/22/1998

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	01/01	to 12/31	0.280 cfs	60.0 af
			0.280 cfs	60.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	NWNE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	SWNE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	SESENW	Sec 23 Twp 13N Rge 43E	FREMONT County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	43E	14																X	
13N	43E	23	X	X	X	X				X	X					X			
																L 3			
13N	43E	24							X										
									L 2										

CONDITIONS OF APPROVAL

- Domestic use is for 50 homes.
- Rights 21-7442 and 21-7583 when combined shall not exceed a total diversion rate of 0.28 cfs.
- 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.
- The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
- The domestic use authorized under rights 21-7442 and 21-7583 shall not exceed 13,000 gallons per day per home.

Transfer No. 84997

WATER RIGHT NO. 21-7583
As Modified by Transfer No. 84997

CONDITIONS OF APPROVAL

6. Points of diversion are located within Lot 9, Blk 3; Lot 8, 23, & 24, Blk 5; Lot 1, Blk 19; and Lot 16A, Blk 7; Buffalo River Estates Subdivision.
7. Place of use is located within Lots 1-14, Blk 1; Lots 1-11, Blk 2; Lots 1-8 & 10-28, Blk 3; Lots 1-17, Blk 4; Lots 1-7, 9-22 & 25-30, Blk 5; Lots 1-15, Blk 6; Lots 1-5, 13-19 & 55-59, Blk 7; Lots 1-6, Blk 8; Lots 3-10, Blk 13; Lots 6-15, Blk 15; Lots 2-7, Blk 16; Lots 2-8, Blk 17; and Lots 1-10 & 15-23, Blk 18; Buffalo River Estates Division Nos. 1, 2, 3 & 4. Lots 1-3, Blk 6; Lots 1-5, Blk 5; Elk Creek Estates No. 1.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
9. This right does not grant any right-of-way or easement across the land of another.
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.

WATER RIGHT NO. 21-7442**As Modified by Transfer No. 84997**

In accordance with the approval of Transfer No. 84997, Water Right No. 21-7442 is now described as follows:

Right Holder: BUFFALO RIVER WATER ASSN INC
PO BOX 4376
POCATELLO, ID 83205-4376

Priority Date: 8/19/1989

Source: GROUND WATER

BENEFICIAL USE
DOMESTIC

From 01/01 **To** 12/31

Diversion Rate
0.280 cfs
0.280 cfs

Diversion Volume
84.0 af
84.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	NWNE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	SWNE	Sec 23 Twp 13N Rge 43E	FREMONT County
GROUND WATER	SESENE	Sec 23 Twp 13N Rge 43E	FREMONT County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	43E	14																X	
13N	43E	23	X	X	X	X				X	X					X			
																L 3			
13N	43E	24							X										
									L 2										

CONDITIONS OF APPROVAL

- Domestic use is for 70 homes.
- Rights 21-7442 and 21-7583 when combined shall not exceed a total diversion rate of 0.28 cfs.
- 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.
- The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
- The domestic use authorized under rights 21-7442 and 21-7583 shall not exceed 13,000 gallons per day per home.

Transfer No. 84997

WATER RIGHT NO. 21-7442

As Modified by Transfer No. 84997

CONDITIONS OF APPROVAL

6. Points of diversion are located within Lot 9, Blk 3; Lot 8, 23, & 24, Blk 5; Lot 1, Blk 19; and Lot 16A, Blk 7; Buffalo River Estates Subdivision.
7. Place of use is located within Lots 1-14, Blk 1; Lots 1-11, Blk 2; Lots 1-8 & 10-28, Blk 3; Lots 1-17, Blk 4; Lots 1-7, 9-22 & 25-30, Blk 5; Lots 1-15, Blk 6; Lots 1-5, 13-19 & 55-59, Blk 7; Lots 1-6, Blk 8; Lots 3-10, Blk 13; Lots 6-15, Blk 15; Lots 2-7, Blk 16; Lots 2-8, Blk 17; and Lots 1-10 & 15-23, Blk 18; Buffalo River Estates Division Nos. 1, 2, 3 & 4. Lots 1-3, Blk 6; Lots 1-5, Blk 5; Elk Creek Estates No. 1.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
9. This right does not grant any right-of-way or easement across the land of another.
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.

Attachment to Transfer Approval 84997

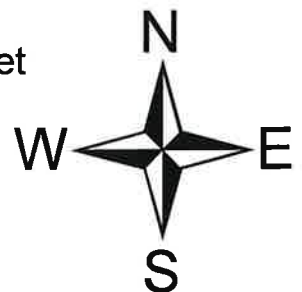
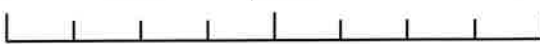
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

-  WR POU
-  Township/Range
-  Sections
-  QQ

0 500 1,000 2,000 Feet



Date: 8/20/2021



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

August 20, 2021

BUFFALO RIVER WATER ASSN INC
PO BOX 4376
POCATELLO ID 83205-4376

Re: Transfer No: 84997
Water Right No(s): 21-7442, 21-7583

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure

CC:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 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.: 84997
Water Right No(s): 21-7442, 21-7583

BUFFALO RIVER WATER ASSN INC
PO BOX 4376
POCATELLO ID 83205-4376

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552



Christina Henman
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.