

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85008**

This is to certify that: STATE OF IDAHO
FISH AND GAME COMMISSION
PO BOX 25
BOISE, ID 83707-0025

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>
72-10529	WR/DECREED	4/1/1963	0.800 cfs	N/A	N/A	N/A	EAST FORK SALMON 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>
72-10529	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
72-10529	72-10529	0.800 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.800 cfs	N/A	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 30th day of July, 2021.



Southern Region Manager

WATER RIGHT NO. 72-10529
As Modified by Transfer No. 85008

In accordance with the approval of Transfer No. 85008, Water Right No. 72-10529 is now described as follows:

Right Holder: STATE OF IDAHO
FISH & GAME COMMISSION
PO BOX 25
BOISE, ID 83707-0025

Priority Date: 4/1/1963

Source: EAST FORK SALMON RIVER **Tributary:** SALMON RIVER

BENEFICIAL USE	From	To	Diversion Rate
FISH PROPAGATION	4/01	to 10/31	0.800 cfs 0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

EAST FORK SALMON RIVER NENESW Sec 11 Twp 09N Rge 17E CUSTER County

PLACE OF USE: FISH PROPAGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	17E	11									X								

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. 72D.
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 diversion(s).
3. Fish propagation use is for fish protection through the installation of a deflecting screen on a diversion ditch and a bypass pipe to flush the fish back to the East Fork of the Salmon River.
4. Use of water under this right shall be non-consumptive.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 85008

WATER RIGHT NO. 72-10529
As Modified by Transfer No. 85008

CONDITIONS OF APPROVAL

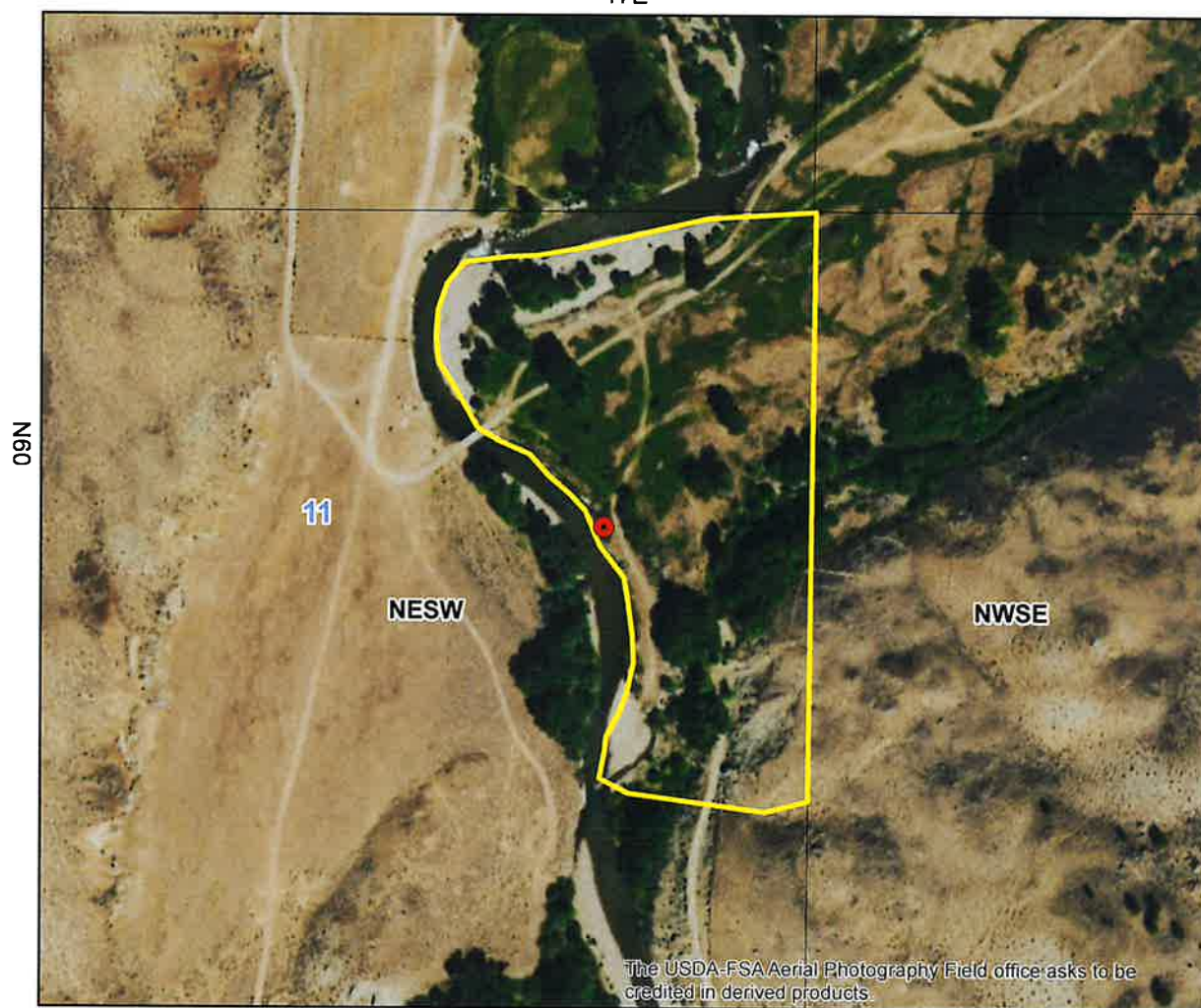
7. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



State of Idaho
Department of Water Resources
Attachment to Transfer # 85008
72-10529

This map depicts the FISH PROPAGATION 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.

17E



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

0 0.035 0.07 0.14 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 • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

July 30, 2021

STATE OF IDAHO
FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

Re: Transfer No: 85008
Water Right No(s): 72-10529

Transfer Approval Notice

Dear Water Right Holder 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:

STATE OF IDAHO DEPT OF FISH & GAME
MIKE DEMICK
97 HIGHWAY 93 N
SALMON ID 83467-5292

WATER DISTRICT 72D
BRENT CUTLER
45 BUCKBOARD LN
CHALLIS ID 83226-4998

WATER DISTRICT 170
DAVID GRAYBILL
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 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.: 85008
Water Right No(s): 72-10529

STATE OF IDAHO FISH & GAME COMMISSION
PO BOX 25
BOISE ID 83707-0025

STATE OF IDAHO DEPT OF FISH & GAME
MIKE DEMICK
97 HIGHWAY 93 N
SALMON ID 83467-5292

WATER DISTRICT 72D
BRENT CUTLER
45 BUCKBOARD LN
CHALLIS ID 83226-4998

WATER DISTRICT 170
DAVID GRAYBILL
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858



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: July 12, 2021
To: Transfer #85008- State of Idaho, Fish and Game Commission file
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the point of diversion (POD) and place of use (POU) of fish propagation right 72-10529 (0.80 cfs, East Fork Salmon River). The existing POD is located approximately 9.4 miles south and 1.1 mile west of Clayton and the new POD will be located approximately 0.2 mile upstream on the East Fork of the Salmon River. The POU (fish screen/bypass) will move into the adjacent quarter-quarter to correspond to the location change of the POD.

This transfer was made necessary due to a 2020 transfer which changed the point of diversion for irrigation rights 72-10302A, 72-10303, 72-10304, and 72-16779, and right 72-10529 provided the fish screen and bypass for that diversion.

Because the transfer involves changing a POD on a stream, it was advertised and public comment was sought, with no protests filed. The transfer is located within Water District 170 and Subdistrict 72D, so Watermaster comments were solicited from both Water Districts. The Watermaster of WD-72D did not respond and the Watermaster of WD-170 recommended approval of the transfer.

- **Authority to File:**
The Department's database indicates that the water right involved is owned by the State of Idaho, Department of Fish and Game. The application was signed by Tom Curet, Regional Supervisor of the Idaho Department of Fish and Game.
- **Water Right Validity:**
The diversion has seen use in recent years, so forfeiture is likely not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The POD will move less than ¼ mile upstream and the water is returned to the river after bypassing the fish screen.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. The application was advertised, and no protests were filed.
- **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 of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

Maline, Denise

From: Taylor Winger <twinger@postregister.com>
Sent: Thursday, July 1, 2021 1:11 PM
To: Maline, Denise
Subject: Re: LEGAL NOTICE FOR CHALLIS MESSENGER

I overlooked the published line on this ad. It did publish two Thursdays. The affidavit has conflicting information. It states the 17th and 23rd which are Thursdays but states the Challis Messenger publishes 1 day (Wednesday). I'll have to get with our system provider to adjust that form.

Taylor Winger

Legal Notice Representative
208-716-8112

IDAHO: Bingham News Chronicle • Challis Messenger • Idaho State Journal • News Examiner • Preston Citizen • Post Register • Standard Journal •

Teton Valley News

UTAH: Herald Journal • The Leader

APG

ADAMS PUBLISHING GROUP LLC

HOLIDAY LEGAL NOTICE DEADLINE CHANGES - 4th of July

The Tuesday, July 6, editions of the Bingham News Chronicle, Idaho State Journal, Post Register and Standard Journal will deadline at 5 p.m. Thursday, July 1.

The Teton Valley News will deadline at 5 p.m. Thursday, July 1, for Wednesday, July 7.

The Challis Messenger will deadline at 11 a.m. Friday for Thursday, July 8.

We will be unable to accommodate late submissions and adjustments due to press deadlines.

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Thursday, July 1, 2021 12:56 PM
To: Taylor Winger <twinger@postregister.com>
Subject: FW: LEGAL NOTICE FOR CHALLIS MESSENGER

CAUTION, this email originated from outside the organization.

I guess I am confused, since I recently advertised in the CM on Weds in June. See attached. That's why I was questioning the change to Thursdays.

Denise

**** Challis Messenger now publishes on Thursdays (as of March 1 – see next page). This ad ran on 6/17 & 6/24/2021. It published twice, therefore, no need to re-advertise.**

Maline, Denise

From: Taylor Winger <twinger@postregister.com>
Sent: Thursday, July 1, 2021 12:51 PM
To: Maline, Denise
Subject: Re: LEGAL NOTICE

X They transitioned publication days as of March 1. I'll await the new ad. Sorry for the inconvenience!

Taylor Winger

Legal Notice Representative
208-716-8112

IDAHO: Bingham News Chronicle • Challis Messenger • Idaho State Journal • News Examiner • Preston Citizen • Post Register • Standard Journal •

Teton Valley News

UTAH: Herald Journal • The Leader

APG

ADAMS PUBLISHING GROUP LLC

HOLIDAY LEGAL NOTICE DEADLINE CHANGES - 4th of July

The Tuesday, July 6, editions of the Bingham News Chronicle, Idaho State Journal, Post Register and Standard Journal will deadline at 5 p.m. Thursday, July 1.

The Teton Valley News will deadline at 5 p.m. Thursday, July 1, for Wednesday, July 7.

The Challis Messenger will deadline at 11 a.m. Friday for Thursday, July 8.

We will be unable to accommodate late submissions and adjustments due to press deadlines.

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>

Sent: Thursday, July 1, 2021 12:48 PM

To: Taylor Winger <twinger@postregister.com>

Subject: RE: LEGAL NOTICE

CAUTION, this email originated from outside the organization.

X Is this something that changed recently? I'll have to modify my publication, because of our Idaho Statutes and Rules regarding dates of publication. I'll send a modified publication within the next couple of hours.

Thank you.

From: Taylor Winger [mailto:twinger@postregister.com]

Sent: Thursday, July 1, 2021 12:46 PM

To: Maline, Denise <Denise.Maline@idwr.idaho.gov>

Subject: Re: LEGAL NOTICE

Challis has moved publication days to Thursday. I've adjusted to the 8th and 15th

Taylor Winger

Legal Notice Representative
208-716-8112

IDAHO: Bingham News Chronicle • Challis Messenger • Idaho State Journal • News Examiner • Preston Citizen • Post Register • Standard Journal •

Teton Valley News

UTAH: Herald Journal • The Leader

APG

ADAMS PUBLISHING GROUP LLC

HOLIDAY LEGAL NOTICE DEADLINE CHANGES - 4th of July

The Tuesday, July 6, editions of the Bingham News Chronicle, Idaho State Journal, Post Register and Standard Journal will deadline at 5 p.m. Thursday, July 1.

The Teton Valley News will deadline at 5 p.m. Thursday, July 1, for Wednesday, July 7.

The Challis Messenger will deadline at 11 a.m. Friday for Thursday, July 8.
We will be unable to accommodate late submissions and adjustments due to press deadlines.

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Thursday, July 1, 2021 11:19 AM
To: Challis Legals <legals@challismessenger.com>
Subject: LEGAL NOTICE

CAUTION, this email originated from outside the organization.

Attached please find (1) legal notice being submitted for publication in the Challis Messenger on July 7th & 14th, 2021. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls

Denise Maline, Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov



PROOF OF PUBLICATION The Challis Messenger

RECEIVED

JUN 28 2021

DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
County of Custer

I, ~~Dawn Giannini~~, or Collins Crapo first being duly sworn, depose and say: That I am the ~~Classified Manager~~, or Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Challis Messenger, a newspaper of general circulation, published 1 day, Wednesday at Challis, Idaho.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85008

STATE OF IDAHO, FISH AND GAME COMMISSION, PO BOX 25, BOISE, ID 83707-0025 has filed Application No. 85008 for changes to the following water rights within CUSTER County(s): Right No(s). 72-10529; to see a full description of these rights and the proposed transfer, please see

<https://research.idwr.idaho.gov/apps/waterrights/query/newtransfers>.

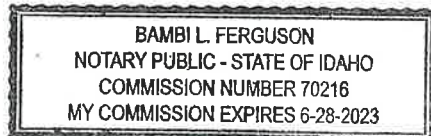
The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) and place of use (POU) of fish propagation right 72-10529 (0.80 cfs, East Fork Salmon River). The existing POD is located approximately 9.4 miles south and 1.1 mile west of Clayton and the new POD will be located approximately 0.2 mile upstream on the East Fork of the Salmon River. The POU (fish screen/bypass) will move into the adjacent quarter-quarter to correspond to the location change of the POD.

For additional information concerning the property location, contact Southern Region office at (208)736-3033. 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, Southern Region, 650 ADDISON AVE W STE 500, TWIN FALLS ID 83301-5858 together with a protest fee of \$25.00 for each application on or before July 6, 2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on June 16th & 23rd, 2021 (110674-12622)

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said The Challis Messenger for 2, first publication having been made on 06/17/2021 last publication having been made on 06/24/2021, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, on this 24th day of June, 2021



Notary Public
My commission expires:

attached jurat

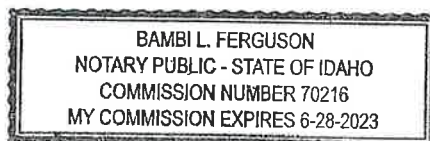
STATE OF IDAHO

ss.

COUNTY OF CUSTER

On this 24th day of June, 2021 before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini~~ or Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for APG of the Rockies
Residing: Idaho Falls, Idaho
Commission expires:

✓ *bm* 7.6.2021

**** Challis Messenger now publishes on Thursdays.**

This ad ran on 6/17 & 6/24/2021.

It published twice, therefore, no need to re-advertise.

Maline, Denise

From: Yenter, Cindy
Sent: Monday, June 14, 2021 8:26 AM
To: Maline, Denise
Cc: Bitzenburg, James
Subject: RE: Comment Letter for Transfer 85008 (F&G Commission)

I recommend approval of this transfer. The decreed POD has always been incorrect. The changed POD is at the same location as the transferred Baker rights, SID 529892.

WD Flag = 72D

*Cindy Yenter
IDWR Salmon Field Office
WD170
102 S Warpath
Salmon ID 83467
208-742-0655
208-731-0901 cell*

From: Maline, Denise
Sent: Thursday, June 10, 2021 3:23 PM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: Comment Letter for Transfer 85008 (F&G Commission)

Good afternoon Cindy,

Attached is an application for transfer currently being processed by the department. Please review the application and provide any necessary comments within 21 days. Comments have also been solicited from sub-district 72D.

If you have any questions regarding this application, please feel free to contact Water Resource Agent Jim Bitzenburg at (208) 736-3033.

Thank you in advance,

Denise @ IDWR

Denise Maline, Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov