

MAY 27 2021

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR AMENDMENT OF A PERMIT

Department of Water Resources
Eastern Region

Fee is \$100 per § 42-221C, Idaho Code

Applicant(s) Nest Egg Investments Inc. Phone 208-521-6032
Name connector (check one): ☐ and ☐ or ☐ and/or
Mailing address c/o Aaron McCracken, 1665 Delmar Dr. City Idaho Falls
State ID Zip 83404 Email: _____

I am the owner of Water Appropriation Permit No. 25-14419 and request that the permit be amended as follows:

- ☒ Change point of diversion ☐ Add point of diversion ☐ Change period of use
☒ Change nature of use ☒ Change place of use ☐ Other _____

1. Point of diversion: ☐ No changes to point(s) of diversion. Skip item #1 and proceed to #2.
☒ Attach Eastern Snake Plain Aquifer analysis if this proposes to change a point of diversion affecting the ESPA.

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
2N	38E	34			NE	NE	Bonneville	Ground water	

2. Period and nature of use: ☐ No changes to period and/or nature of use. Skip item #2 and proceed to #3.
- Amount 0.23 cfs for Commercial purposes from 4/01 to 10/31 (both dates inclusive)
(cfs or acre-feet per year) (water use) (month/day) (month/day)
- Amount 2.7 afa for Commercial purposes from 4/01 to 10/31 (both dates inclusive)
(cfs or acre-feet per year) (water use) (month/day) (month/day)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (month/day) (month/day)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (month/day) (month/day)

3. Place of use or land to be irrigated: ☐ No changes to place of use. Skip item #3 and proceed to #4.

Twp	Rge	Sec	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	38E	34	C	C															

Total number of acres to be irrigated _____

4. **Property ownership:** ☐ No changes to point of diversion and/or place of use. Skip item #4 and proceed to #5.

- a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

5. **Describe the proposed change in narrative form:**

Applicant obtained Permit 25-14419, which is mitigated with volume under 25-14417, for the purpose of a new nursery located south of Rigby. The new nursery will not be developed due to unexpected relocation requirements for the applicant's existing facility Sunnyside Gardens in Ammon, which was moved to a new location in 2017-2019. It is proposed to develop this permit for growth at the new Sunnyside Gardens location rather than develop a new location south of Rigby. An existing well will deliver water under this permit. A companion transfer application is submitted simultaneously to relocate 25-14417.

6. **Map:** ☐ The point(s) of diversion and/or the place of use are not amended, therefore a map is not attached.

Attach a map showing the proposed point(s) of diversion and/or place(s) of use. Clearly label the map with township, range, section, and ¼ ¼ of section information. A photocopy of a USGS 7.5 minute topographic quadrangle is commonly used, or the Map Tool available on the Department website provides a satisfactory template for creating the required map (<http://maps.idwr.idaho.gov/TransferApplicationLayouts/Map>).

7. **Signature:**

The information in this application is true to the best of my knowledge. I understand that any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.



Signature of applicant or authorized agent

AARON MCCracken - member 5/20/21

Print name (and title, if applicable)

Date

Signature of applicant or authorized agent

Print name (and title, if applicable)

Date

FOR DEPARTMENT USE ONLY

*Receipt total \$575. - \$100. --
for this app.*

Received by _____

Date _____

Received by JB

Date 5/27/2021

Reviewed by _____

Date _____

Receipt No. E047017

Narrative to Support Applications:**Application for Transfer of Water Right 25-14417****Application for Amendment of Permit 25-14419***Nest Egg Investments LLC*

The applicant proposed to develop a new nursery location south of the City of Rigby in 2014. To provide water for the proposed nursery, applicant obtained Permit 25-14419, with purchased water right 25-14417 providing for the volume component of the new use. In 2014, IDWR approved the Permit 25-14419 and the transferred water right 25-14417 with a combined limit of 2.7 afa for the irrigation of 1.0 acre. The nature of use on both rights are listed as "Irrigation," with an added use for "domestic" for the office building of the nursery on the Permit 25-14419. Both rights are dependent on each other for full operation of the proposed nursery.

Since the time of the approved permit and transfer of water rights 25-14417 and 25-14419 in 2014, the applicant has not been able to develop the proposed nursery. In 2015, the applicant received news that their primary nursery location of Sunnyside Gardens in Idaho Falls was at risk. The land owner was selling the property and it would no longer be available, necessitating relocation of the primary business. A timeline of the detailed events was submitted to IDWR with a request for an extension of time to develop Permit 25-14419 (which was approved) and is included in Attachment #10.

The forced relocation of the primary facility location in Ammon delayed and ultimately changed the business plan for the applicant in regards to rights 25-14417 and 25-14419. It became unfeasible to build two nurseries simultaneously at the new location in Ammon and the proposed location south of Rigby. Likewise, it is now no longer considered feasible to continue to pursue the new nursery location in Rigby. Therefore, it is proposed to relocate rights 25-14417 and 25-14419 to the primary nursery location in Ammon for the continued growth and development of the Ammon nursery.

At the time that these applications were approved in 2014, the approach taken to describe the intended use was different from the process used today. Since the approval of these water rights in 2014, IDWR has developed a new process for addressing water rights for similar scenarios. Today, a water right transferred to provide the volume component of a new permit can be changed to "Mitigation by non-use." The development of rights 25-14417 and 25-14419 preceded this new process. However, right 25-14417 essentially performs the same role as a mitigation right would: it provides the consumptive volume component to Permit 25-14419 and binds them together.

Idaho Statute §42-223(10) states that if a water right is left unused for mitigation purposes, then it is protected from forfeiture. Even though 25-14417 is not listed as "mitigation," it provides the consumptive component bound to a permit that is still in

development and is therefore protected from forfeiture. Additionally, uncontrollable circumstances prevented development of the nursery, for which the water rights were intended.

To best reflect the beneficial use under 25-14417 and 25-14419, it is proposed to change the nature of use of both water rights to "Commercial." They will be used at a commercial nursery business for irrigation within and around greenhouses. It is also proposed to remove the "Domestic" component from 25-14419 since a new office building will not be required and the office use is already covered under the existing commercial water right 25-7320. See Attachment #8a of the transfer application for additional information on conversion to a new beneficial use.

Eastern Snake Plain Aquifer Modeling Analysis

Nest Egg Investments LLC

The Applicant proposes to relocate water rights 25-14417 and 25-14419, which authorize a total diversion of 2.7 afa for irrigation at a nursery. The modeling included below represents the combined limitation of 2.7 afa being relocated to the proposed point of diversion. The points of diversion included in this modeling analysis are identified to be located in the following grid cells and are shown in Figure 1:

TO Well	R76 C162
FROM Well 1	R67 C169

Using ESPAM 2.1 to simulate the depletions of transferring 2.7 AFA (0.9 AF/trimester) from the original point of diversion to the proposed point of diversion, the affects do not exceed the threshold of 2.0 af/trimester. **No mitigation is required.** Figures 2-4 include excerpts from the ESPAM 2.1 simulation.

Figure 1. ESPAM Grid Map



Figure 2. Data Entry

ENHANCED GROUND-WATER RIGHTS TRANSFER

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE IDAHO DEPARTMENT OF AGRICULTURE

Cells this color are set up for user entries

ENTER STARTING DATE FOR SIMULATION. THEN PUSH "UPDATE DATES" BUTTON

TRANSFER NO: 25-14417 & 25-14

YEAR: 1991

SEASON: WINTER

TRANSFER NAME: Nest Egg Investment

UPDATE DATES

RUN MODEL

GET OUTPUT

CALCULATE EFFECTS

ENTER CELL LOCATIONS:

	'TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL
ROW	67	76	75	45
COLUMN	169	162	105	30

TRIMESTER OF ACTIVITY	TO WELL	FROM1 WELL		FROM2 WELL		FROM3 WELL	
	Projected Use AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
WIN 1991	0	1	1	0	0	0	0
SPR 1992	0	1	1	0	0	0	0
SUM 1992	0	1	1	0	0	0	0
WIN 1992	0	1	1	0	0	0	0
SPR 1993	0	1	1	0	0	0	0
SPR 2021	0	1	1	0	0	0	0
SUM 2021	0	1	1	0	0	0	0
WIN 2021	0	1	1	0	0	0	0
SPR 2022	0	1	1	0	0	0	0
SUM 2022	1	0	1	0	0	0	0
WIN 2022	1	0	1	0	0	0	0
SPR 2023	1	0	1	0	0	0	0
SUM 2023	1	0	1	0	0	0	0
WIN 2023	1	0	1	0	0	0	0
SPR 2024	1	0	1	0	0	0	0
SUM 2024	1	0	1	0	0	0	0
WIN 2024	1	0	1	0	0	0	0
SPR 2025	1	0	1	0	0	0	0
SUM 2025	1	0	1	0	0	0	0
WIN 2025	1	0	1	0	0	0	0
SPR 2026	1	0	1	0	0	0	0
SUM 2026	1	0	1	0	0	0	0
WIN 2026	1	0	1	0	0	0	0
SPR 2027	1	0	1	0	0	0	0
SPR 2139	1	0	1	0	0	0	0
SUM 2139	1	0	1	0	0	0	0
WIN 2139	1	0	1	0	0	0	0
SPR 2140	1	0	1	0	0	0	0
SUM 2140	1	0	1	0	0	0	0
WIN 2140	1	0	1	0	0	0	0
SPR 2141	1	0	1	0	0	0	0
SUM 2141	1	0	1	0	0	0	0

Figure 3. Net Transfer Graphs

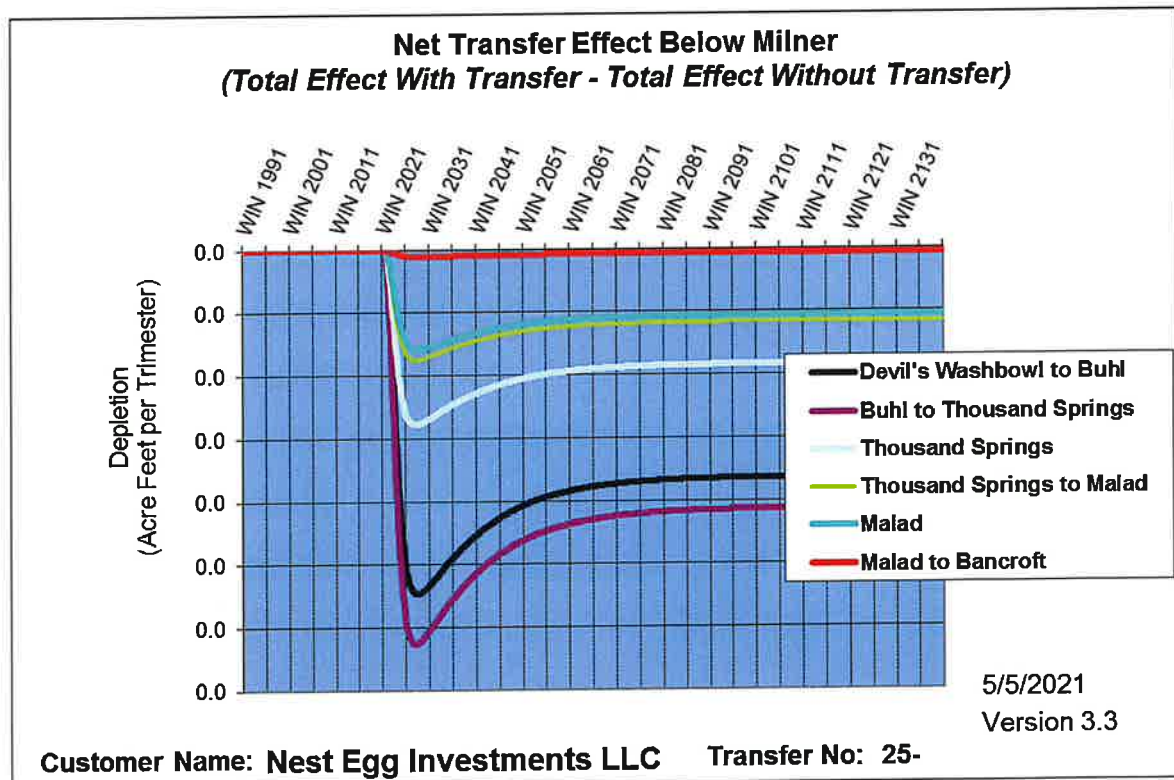
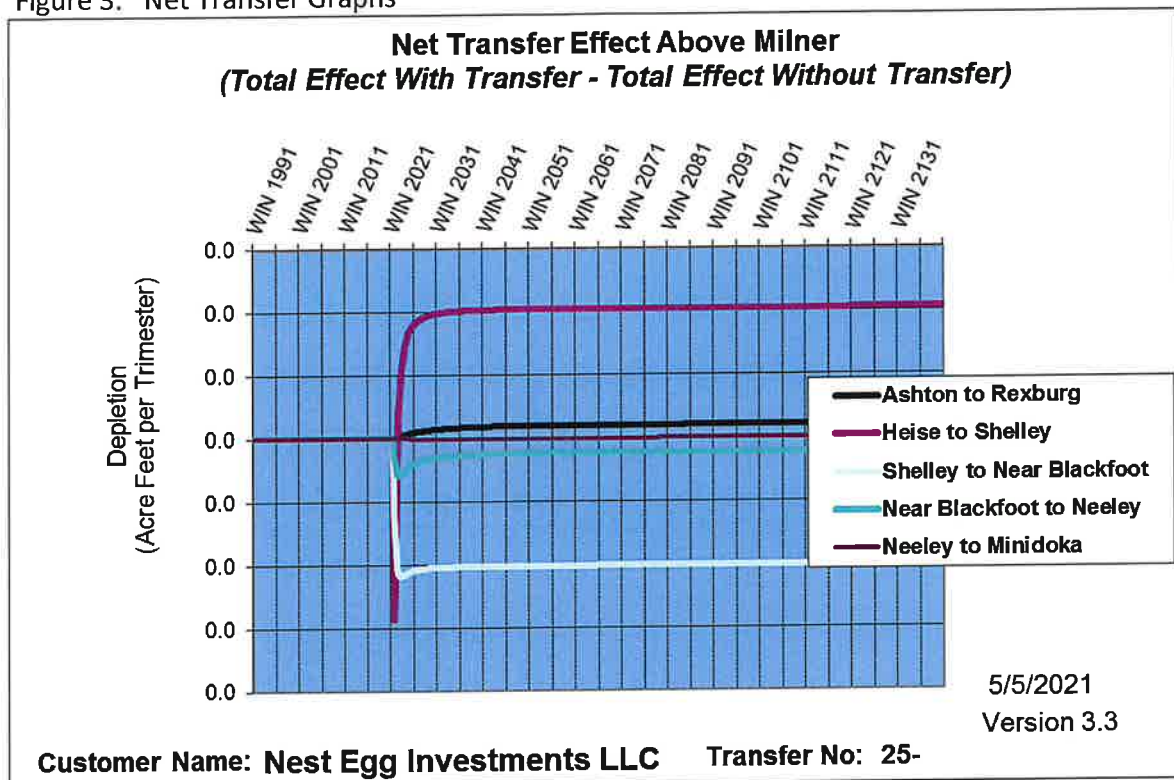
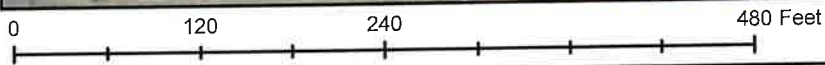


Figure 4. Calculated Effects.

	Net Transfer Effect (AF/four months)											
	Ashton to	Heise to	Shelley to	Nr Bickft	Neeley to	Dev. Wbl.	Buhl to	Kspr	Kspr to	Malad	Malad to	
	Rexburg	Shelley	Nr Bickft	Neeley	Minidoka	Buhl	Kspr		Malad		Bancroft	
WIN 1991	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1992	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 1992	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 1992	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 1993	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2020	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2020	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2020	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2021	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2021	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2021	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2022	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2022	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2022	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2023	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2024	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2024	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2024	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2025	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2025	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2139	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2140	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2140	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WIN 2140	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SPR 2141	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
SUM 2141	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

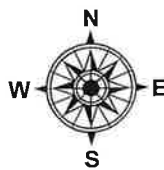
Enter First Time Step of Transfer: SUM 2021													
Match:	90	Match:	456										
	AtR	HS	SINB	NBIN	NIM	DWtB	BTB	TS	TSIM	M	MtB	Total	
Preexisting Effects @ SS (Last Time Step):	0.02	0.37	0.18	0.30	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.90	Total Effect
dy State - Value of Dep. @ Last Time Step:	0.03	0.39	0.16	0.30	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.90	Total Effect
ts @ Transient State (Max Value Timestep):	0.02	0.37	0.18	0.30	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.90	Total Effect
nt State - Max. Value of Dep. After Transfer:	0.03	0.39	0.18	0.30	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.92	Total Effect
Steady State Change:	0.00	0.02	-0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
Transient State Change:	0.00	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		



2019 Aerial Photography

Legend

- Proposed POD QQ
- Proposed POU
- Twp & Rng
- Section



Application for Amendment of Permit 25-14419

Nest Egg Investments LLC

RMEA #18-0083

by: KM

Date: 5/20/2021





State of Idaho

DEPARTMENT OF WATER RESOURCES

EASTERN Region • 900 N SKYLINE DR STE A • IDAHO FALLS, ID 83402-1718
Phone: (208)525-7161 • Fax: (208)525-7177 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

June 30, 2021

NEST EGG INVESTMENTS LLC
C/O AARON MC CRACKEN
1665 DELMAR DR
IDAHO FALLS, ID 83404

RE: Transfer No. 85019, Amendment of Permit 25-14419

Dear Applicant:

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

A legal notice of the applications has been prepared and is scheduled for publication in the POST REGISTER on 7/8/2021 and 7/15/2021. 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 them. 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:
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402-3552

Henman, Christina

From: Henman, Christina
Sent: Wednesday, June 30, 2021 2:23 PM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for Post Register
Attachments: 25-14419, 85019, 85002 Post Register.docx

LEGAL NOTICE DEPARTMENT
POST REGISTER
PO BOX 1800
IDAHO FALLS, ID 83403-1800

RE: 25-14419, 85019, 85002

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 7/26/2021. Your cooperation is appreciated.

Sincerely,

Thank You,

Christina Henman
Administrative Assistant
Idaho Dept. of Water Resources, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 497-3793

NOTICE OF PROPOSED AMENDMENT OF WATER PERMIT**25-14419**

NEST EGG INVESTMENTS, INC, C/O AARON MCCracken, 1665 DELMAR DRIVE, IDAHO FALLS, ID 83404 filed an application to amend permit no. 25-14419 on 05-27-2021. Application filed to change nature of use, point of diversion, and place of use.

New Use: COMMERCIAL

04/01 to 10/31 0.23 CFS and 2.7 AFA

Total Diversion: 0.23 CFS and 2.7 AFA

New Points of Diversion:

NENE S34 T2N R38E

BONNEVILLE County

Source: GROUND WATER

Date Filed: 10/23/2014

New Place of Use: COMMERCIAL

T02N R38E S34 NENE NWNE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Eastern office at (208)525-7161; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. 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 7/26/2021. The protestant must also send a copy of the protest to the applicant.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT**TRANSFER NO. 85019**

NEST EGG INVESTMENTS LLC, C/O AARON MC CRACKEN

1665 DELMAR DR, IDAHO FALLS, ID 83404 has filed Application No. 85019 for changes to the following water rights within BONNEVILLE County(s): Right No(s). 25-14417; 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, place of use, and nature of use. The proposed point of diversion is in NENE Sec 34 T02N R38E for 0.02 cfs from Ground Water. The proposed place of use is in NENE and NWNE Sec 34 T02N R38E. The proposed nature of use is Commercial.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT**TRANSFER NO. 85002**

U.S. FISH AND WILDLIFE SERVICE, 911 NE 11TH AVENUE, PORTLAND, OR 97232 has filed Application No. 85002 for changes to the following water rights within JEFFERSON County(s): Right No(s). 31-11230, 31-11231, 31-2350, 31-2362, 31-7301; 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 and add points of diversion. The proposed points of diversion are in SESW Sec 13 T07N R35E; and SENW Sec 29 and NWNW Sec 20, T07N R36E for 35.54 cfs from Ground water.

For additional information concerning the property locations, 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 7/26/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/8/2021 and 7/15/2021