

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84865**

This is to certify that: ELIZABETH H PHILLIPS AND
JOSEPH PHILLIPS
774 N 1200 W
BLACKFOOT, ID 83221

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>
35-14452	WR/LICENSE	4/10/1998	0.400 cfs	84.0 af	21.0	419.0	GROUND WATER
35-2541	WR/DECREED	6/11/1958	2.880 cfs	876.0 af	N/A	219.0	GROUND WATER
35-7930	WR/LICENSE	4/10/1998	1.310 cfs	556.1 af	N/A	219.0	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
35-2265	WR/DECREED	10/9/1952	6.000 cfs	1416.0 af	354.0	398.0	GROUND WATER
35-4214	WR/DECREED	6/1/1960	0.590 cfs	250.0 af		398.0	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>
35-14452	NO	YES	YES	NO	NO	NO
35-2541	YES	YES	YES	NO	NO	NO
35-7930	YES	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>
35-14452	35-14452	0.400 cfs	84.0 af	21.0	25.0	N/A	N/A	N/A	N/A	N/A
35-2541	35-14742	0.050 cfs	16.0 af	4.0	25.0	35-2541	2.830 cfs	860.0 af	N/A	215.0
35-7930	35-14743	0.020 cfs	8.5 af	4.0	25.0	35-7930	1.290 cfs	547.6 af	N/A	215.0
COMBINED TOTALS		0.470 cfs	100.0 af	25.0	25.0		N/A	N/A	N/A	N/A

Transfer No. 84865

Support Data
In File # 35-2541

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 84865

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 27th day of May, 2021


Regional Manager



Transfer No. 84865

Support Data
In File # 35-2541

WATER RIGHT NO. 35-2541**As Modified by Transfer No. 84865**

In accordance with the approval of Transfer No. 84865, Water Right No. 35-2541 is now described as follows:

Right Holder: JOSEPH PHILLIPS AND
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 6/11/1958

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

4/01

to

To

10/31

Diversion Rate

2.830 cfs

2.830 cfs

Diversion Volume

860.0 af

860.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENESEW

Sec 30 Twp 01S Rge 34E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	34E	30									38.0	36.0	33.5	36.3		36.2	35.0		215.0
											L 3	L 4							

POU Total Acres: 215.0

CONDITIONS OF APPROVAL

1. Rights 35-02541 and 35-07930 when combined shall not exceed a total annual maximum diversion volume of 860 af at the field headgate for irrigation purposes, and the irrigation of 215 acres.
2. Pursuant to Section 42-1412(6), Idaho Code, 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.

Transfer No. 84865

WATER RIGHT NO. 35-14742**As Modified by Transfer No. 84865**

In accordance with the approval of Transfer No. 84865, Water Right No. 35-14742 is now described as follows:

Right Holder: JOSEPH PHILLIPS AND
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 6/11/1958

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

4/01

to 10/31

To**Diversion Rate**

0.050 cfs

0.050 cfs

Diversion Volume

16.0 af

16.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENE

Sec 25 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	24									0.6	0.4	9.0	15.0					25.0

Right Acre Limit: 4.0

POU Total Acres: 25.0

CONDITIONS OF APPROVAL

1. Rights 35-14742 and 35-14743 when combined shall not exceed a total annual maximum diversion volume of 16.0 af at the field headgate and the irrigation of 4.0 acres.
2. Rights 35-14452, 35-14742 and 35-14743 when combined shall not exceed a total annual maximum diversion volume of 100.0 af at the field headgate and the irrigation of 25.0 acres.
3. 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. 120.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 84865

WATER RIGHT NO. 35-14742
As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 84865, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Section 42-1412(6), Idaho Code, 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.

WATER RIGHT NO. 35-7930**As Modified by Transfer No. 84865**

In accordance with the approval of Transfer No. 84865, Water Right No. 35-7930 is now described as follows:

Right Holder: JOSEPH PHILLIPS AND
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 4/10/1998

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.290 cfs	547.6 af
STOCKWATER	01/01	to 12/31	0.060 cfs	
			1.290 cfs	547.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 30 Twp 01S Rge 34E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	34E	30									38.0	36.0	33.5	36.3		36.2	35.0		215.0
											L 3	L 4							

POU Total Acres: 215.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	34E	30			X				X	X	X	X	X	X		X	X		
									L 2			L 3	L 4						

CONDITIONS OF APPROVAL

1. Right 35-02541 is also diverted through the point of diversion described above.
2. Rights 35-02541 and 35-07930 when combined shall not exceed a total annual maximum diversion volume of 860 af at the field headgate for irrigation purposes, and the irrigation of 215 acres.
3. This right shall not exceed a total annual maximum diversion volume of 7.2 af for stockwater purposes.

Transfer No. 84865

WATER RIGHT NO. 35-7930
As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.



WATER RIGHT NO. 35-14743
As Modified by Transfer No. 84865

In accordance with the approval of Transfer No. 84865, Water Right No. 35-14743 is now described as follows:

Right Holder: JOSEPH PHILLIPS AND
 ELIZABETH H PHILLIPS
 774 N 1200 W
 BLACKFOOT, ID 83221

Priority Date: 4/10/1998

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

to 10/31

Diversion Rate

0.020 cfs

0.020 cfs

Diversion Volume

8.5 af

8.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENE

Sec 25 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	24									0.6	0.4	9.0	15.0					25.0

Right Acre Limit: 4.0

POU Total Acres: 25.0

CONDITIONS OF APPROVAL

1. Rights 35-14742 and 35-14743 when combined shall not exceed a total annual maximum diversion volume of 16.0 af at the field headgate and the irrigation of 4.0 acres.
2. Rights 35-14452, 35-14742 and 35-14743 when combined shall not exceed a total annual maximum diversion volume of 100.0 af at the field headgate and the irrigation of 25.0 acres.
3. 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. 120.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 84865

WATER RIGHT NO. 35-14743

As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 84865, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. 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. 35-14452**As Modified by Transfer No. 84865**

In accordance with the approval of Transfer No. 84865, Water Right No. 35-14452 is now described as follows:

Right Holder: JOSEPH PHILLIPS AND
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 4/10/1998

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.400 cfs

0.400 cfs

Diversion Volume

84.0 af

84.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENE

Sec 25 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	24									0.6	0.4	9.0	15.0					25.0

Right Acre Limit: 21.0

POU Total Acres: 25.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 21.0 acres within the authorized place of use in a single irrigation season.
2. Rights 35-14452, 35-14742 and 35-14743 when combined shall not exceed a total annual maximum diversion volume of 100.0 af at the field headgate and the irrigation of 25.0 acres.
3. Use of water under this right will 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. 120.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 84865

WATER RIGHT NO. 35-14452

As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 84865, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. 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. 35-2265

As Modified by Transfer No. 84865

In accordance with the approval of Transfer No. 84865, Water Right No. 35-2265 is now described as follows:

Right Holder: DOUGLAS PHILLIPS AND
JEANNETTE PHILLIPS
904 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 10/9/1952

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	6,000 cfs	1416.0 af
			6,000 cfs	1416.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNWNE Sec 13 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	13		4.5	16.7	1.5	37.0	30.8	36.8	40.0	40.0	16.8	17.0	38.8	23.0	40.0	38.9	16.2	398.0

Right Acre Limit: 354.0
POU Total Acres: 398.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 354.0 acres within the authorized place of use in a single irrigation season.
2. Rights 35-2265 and 35-4214 when combined shall not exceed a total diversion rate of 6.0 cfs, a total annual maximum diversion volume of 1592.0 af at the field headgate, and the irrigation of 398.0 acres.
3. Use of water under this right will 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. 120.
4. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 84865

WATER RIGHT NO. 35-2265

As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 80755, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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.

WATER RIGHT NO. 35-4214**As Modified by Transfer No. 84865**

In accordance with the approval of Transfer No. 84865, Water Right No. 35-4214 is now described as follows:

Right Holder: DOUGLAS PHILLIPS AND
JEANNETTE PHILLIPS
904 N 1200 W
BLACKFOOT, ID 83221

Priority Date: 6/1/1960

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.590 cfs	250.0 af
			0.590 cfs	250.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNWNE Sec 13 Twp 01S Rge 33E BINGHAM County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	33E	13	4.5	16.7	1.5	37.0	30.8	36.8	40.0	40.0	16.8	17.0	38.8	23.0	40.0	38.9	16.2	398.0	

POU Total Acres: 398.0

CONDITIONS OF APPROVAL

1. Rights 35-2265 and 35-4214 when combined shall not exceed a total diversion rate of 6.0 cfs, a total annual maximum diversion volume of 1592.0 af at the field headgate, and the irrigation of 398.0 acres.
2. Use of water under this right will 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. 120.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Prior to the diversion and use of water under Transfer approval 80755, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 84865

WATER RIGHT NO. 35-4214
As Modified by Transfer No. 84865

CONDITIONS OF APPROVAL

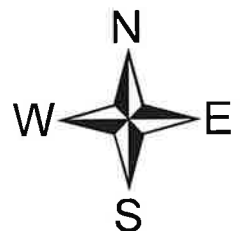
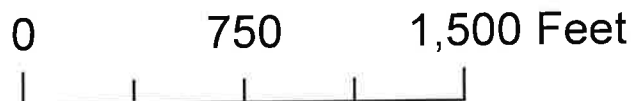
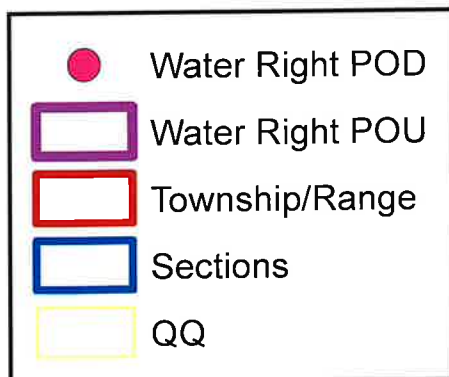
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

Attachment to Transfer Approval 84865

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.



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.



Date: 5/27/2021



State of 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

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

May 27, 2021

JOSEPH PHILLIPS
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT ID 83221

Re: Transfer No: 84865
Water Right No(s): 35-2265, 35-2541, 35-4214, 35-7930, 35-14452

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:

DOUGLAS PHILLIPS
JEANNETTE PHILLIPS
904 N 1200 W
BLACKFOOT ID 83221

THE BANK OF COMMERCE
C/O WESTERN AG CREDIT
PO BOX 95850
SOUTH JORDAN UT 84095-0850

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 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.: 84865

Water Right No(s): 35-2265, 35-2541, 35-4214, 35-7930, 35-14452

**JOSEPH PHILLIPS
ELIZABETH H PHILLIPS
774 N 1200 W
BLACKFOOT ID 83221**

**DOUGLAS PHILLIPS
JEANNETTE PHILLIPS
904 N 1200 W
BLACKFOOT ID 83221**

**THE BANK OF COMMERCE
C/O WESTERN AG CREDIT
PO BOX 95850
SOUTH JORDAN UT 84095-0850**



**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.