

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84009**

This is to certify that: **ROCKY MOUNTAIN WATER EXCHANGE, LLC**
482 CONSTITUTION WAY STE 303
IDAHO FALLS, ID 83402

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>
35-2604	WR/DECREED	7/11/1960	2.560 cfs	760.0 af	N/A	190.0	GROUND WATER
35-7720	WR/DECREED	4/22/1979	1.210 cfs	N/A	N/A	60.9	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>
1-7017	WR/DECREED	3/14/1978	0.810 cfs	N/A		47.9	SNAKE 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>
35-2604	YES	YES	YES	YES	NO	NO
35-7720	YES	YES	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>
35-2604	25-14482	0.530 cfs	156.0 af	39.0	6965.7	35-2604	2.030 cfs	604.0 af	N/A	151.0
35-7720	25-14483	0.260 cfs	52.0 af	13.0	6965.7	35-7720	0.950 cfs	191.6 af	N/A	47.9
COMBINED TOTALS		0.790 cfs	208.0 af	52.0	6965.7		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 6th day of May, 2021


Regional Manager

Transfer No. 84009

Support Data
In File # 35-2604

WATER RIGHT NO. 35-2604**As Modified by Transfer No. 84009**

In accordance with the approval of Transfer No. 84009, Water Right No. 35-2604 is now described as follows:

Right Holder: WAYNE A JENSEN
2777 N 26 W
IDAHO FALLS, ID 83402

Priority Date: 7/11/1960

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

2.030 cfs

2.030 cfs

Diversion Volume

604.0 af

604.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L1 (SENE) Sec 6 Twp 02N Rge 37E BONNEVILLE 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	
02N	37E	5					22.0	30.0	39.0	30.0									121.0
02N	37E	6	30.0				L 3	L 4											30.0
			L 1																

POU Total Acres: 151.0

CONDITIONS OF APPROVAL

1. Right includes accomplished change in place of use pursuant to Idaho Code § 42-1425.
2. 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.

Transfer No. 84009

WATER RIGHT NO. 25-14482**As Modified by Transfer No. 84009**

In accordance with the approval of Transfer No. 84009, Water Right No. 25-14482 is now described as follows:

Right Holder: WAYNE A JENSEN
2777 N 26 W
IDAHO FALLS, ID 83402

Priority Date: 7/11/1960

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.530 cfs

0.530 cfs

Diversion Volume

156.0 af

156.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESW	Sec 10 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	L4 (NWNW)	Sec 2 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESE	Sec 10 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	SWNW	Sec 11 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	SWSW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NENW	Sec 9 Twp 02N Rge 38E	BONNEVILLE 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	
02N	38E	2	38.0	39.0	39.0	38.0	39.0	38.0	39.0	39.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	38.0	626.0
02N	38E	3	38.0	37.0	39.0	39.0	36.0	37.0	38.0	33.0	39.0	28.0	2.0	39.0	39.0	39.0	39.0	39.0	561.0
02N	38E	4	37.0	37.0	38.0	38.0	37.0	34.0	36.0	38.0	39.0	37.0	37.0	38.0	38.0	38.0	38.0	38.0	598.0
02N	38E	9	39.0	40.0	40.0	40.0	40.0	39.0	29.0	39.0					1.0			2.0	309.0
02N	38E	10	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
02N	38E	11	39.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	39.0	636.0
02N	38E	13	38.0	38.0	40.0	39.0	37.0	36.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	628.0
02N	38E	14	40.0	40.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	639.0
02N	38E	15	40.0	40.0	40.0	40.0	40.0	40.0	38.0	38.0	6.0				40.0	39.0	7.0	40.0	448.0
02N	38E	16	27.0	0.3															27.3
02N	38E	22	10.0	1.0		1.0									3.0				15.0
02N	38E	23	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	3.0	7.0			21.0	11.0			362.0
02N	38E	24	40.0	40.0	1.0	0.4	40.0	40.0	38.0	2.0		21.0							222.4
03N	38E	33	1.0			1.0							6.0	5.0	1.0		5.0	5.0	24.0
03N	38E	34	39.0	39.0	40.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	40.0	20.0	39.0	40.0	31.0	40.0	606.0
03N	38E	35	38.0	39.0	40.0	39.0	39.0	39.0	37.0	40.0	40.0	35.0	40.0	40.0	39.0	40.0	40.0	39.0	624.0

Right Acre Limit: 39.0

POU Total Acres: 6965.7

Transfer No. 84009

WATER RIGHT NO. 25-14482
As Modified by Transfer No. 84009

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 39 acres within the authorized place of use in a single irrigation season.
2. Water rights 25-14482 and 25-14483, in combination, are limited to the irrigation of a specific 52 acres within the 6,965.7 acre place of use authorized by this right in a single irrigation season. The specific 52 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 52 acres to be irrigated within the 6,965.7 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
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. Prior to the diversion and use of water under Transfer approval 84009, 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.
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 place of use.
7. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
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 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. 35-7720
As Modified by Transfer No. 84009

In accordance with the approval of Transfer No. 84009, Water Right No. 35-7720 is now described as follows:

Right Holder: PT ELLIOTT LLC
 392 N 4500 E
 RIGBY, ID 83442-5596

Priority Date: 4/22/1979

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From
 04/01

To
 to 10/31

Diversion Rate
 0.950 cfs
 0.950 cfs

Diversion Volume
 191.6 af
 191.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
 GROUND WATER

L6 (NESW)
 L5 (SWSW)

Sec 3 Twp 04N Rge 37E JEFFERSON County
 Sec 3 Twp 04N Rge 37E JEFFERSON 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	
04N	37E	3			5.7						2.3	34.2	0.3	0.3					42.8
					L 7						L 6		L 5	L 14					
04N	37E	3			4.6								0.5						5.1
					L 12								L 14						

POU Total Acres: 47.9

CONDITIONS OF APPROVAL

1. Rights 35-7720 and 01-7017 when combined shall not exceed the irrigation of 47.9 acres.
2. Use of this right with all other rights is limited to a total combined annual diversion volume of 191.6 acre-feet at the field headgate for the lands below.
3. 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. 25-14483**As Modified by Transfer No. 84009**

In accordance with the approval of Transfer No. 84009, Water Right No. 25-14483 is now described as follows:

Right Holder: PT ELLIOTT LLC
392 N 4500 E
RIGBY, ID 83442-5596

Priority Date: 4/22/1979

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
0.260 cfs
0.260 cfs

Diversion Volume
52.0 af
52.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESW	Sec 10 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	L4 (NWNW)	Sec 2 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESE	Sec 10 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	SWNW	Sec 11 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NESW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	SWSW	Sec 14 Twp 02N Rge 38E	BONNEVILLE County
GROUND WATER	NENW	Sec 9 Twp 02N Rge 38E	BONNEVILLE 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	
02N	38E	2	38.0	39.0	39.0	38.0	39.0	38.0	39.0	39.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	38.0	626.0
02N	38E	3	38.0	37.0	39.0	39.0	36.0	37.0	38.0	33.0	39.0	28.0	2.0	39.0	39.0	39.0	39.0	39.0	561.0
02N	38E	4	37.0	37.0	38.0	38.0	37.0	34.0	36.0	38.0	39.0	37.0	37.0	38.0	38.0	38.0	38.0	38.0	598.0
02N	38E	9	39.0	40.0	40.0	40.0	40.0	39.0	29.0	39.0					1.0			2.0	309.0
02N	38E	10	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
02N	38E	11	39.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	39.0	636.0
02N	38E	13	38.0	38.0	40.0	39.0	37.0	36.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	628.0
02N	38E	14	40.0	40.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	639.0
02N	38E	15	40.0	40.0	40.0	40.0	40.0	40.0	38.0	38.0	6.0				40.0	39.0	7.0	40.0	448.0
02N	38E	16	27.0	0.3															27.3
02N	38E	22	10.0	1.0		1.0									3.0				15.0
02N	38E	23	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	3.0	7.0			21.0	11.0			362.0
02N	38E	24	40.0	40.0	1.0	0.4	40.0	40.0	38.0	2.0		21.0							222.4
03N	38E	33	1.0			1.0							6.0	5.0	1.0		5.0	5.0	24.0
03N	38E	34	39.0	39.0	40.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0	20.0	39.0	40.0	31.0	40.0		606.0
03N	38E	35	38.0	39.0	40.0	39.0	39.0	39.0	37.0	40.0	40.0	35.0	40.0	40.0	39.0	40.0	40.0	39.0	624.0

Right Acre Limit: 13.0
POU Total Acres: 6965.7

Transfer No. 84009

WATER RIGHT NO. 25-14483

As Modified by Transfer No. 84009

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 13 acres within the authorized place of use in a single irrigation season.
2. Water rights 25-14482 and 25-14483, in combination, are limited to the irrigation of a specific 52 acres within the 6,965.7 acre place of use authorized by this right in a single irrigation season. The specific 52 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 52 acres to be irrigated within the 6,965.7 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
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. Prior to the diversion and use of water under Transfer approval 84009, 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.
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 place of use.
7. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
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 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. 1-7017**As Modified by Transfer No. 84009**

In accordance with the approval of Transfer No. 84009, Water Right No. 1-7017 is now described as follows:

Right Holder: PT ELLIOTT LLC
392 N 4500 E
RIGBY, ID 83442-5596

Priority Date: 3/14/1978

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
0.810 cfs
0.810 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L13 (NWNWSE) Sec 3 Twp 04N Rge 37E JEFFERSON 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	
04N	37E	3			5.7						2.3	34.2	0.3	0.3					42.8
					L 7						L 6		L 5	L 14					
04N	37E	3			4.6								0.5						5.1
					L 12								L 14						

POU Total Acres: 47.9

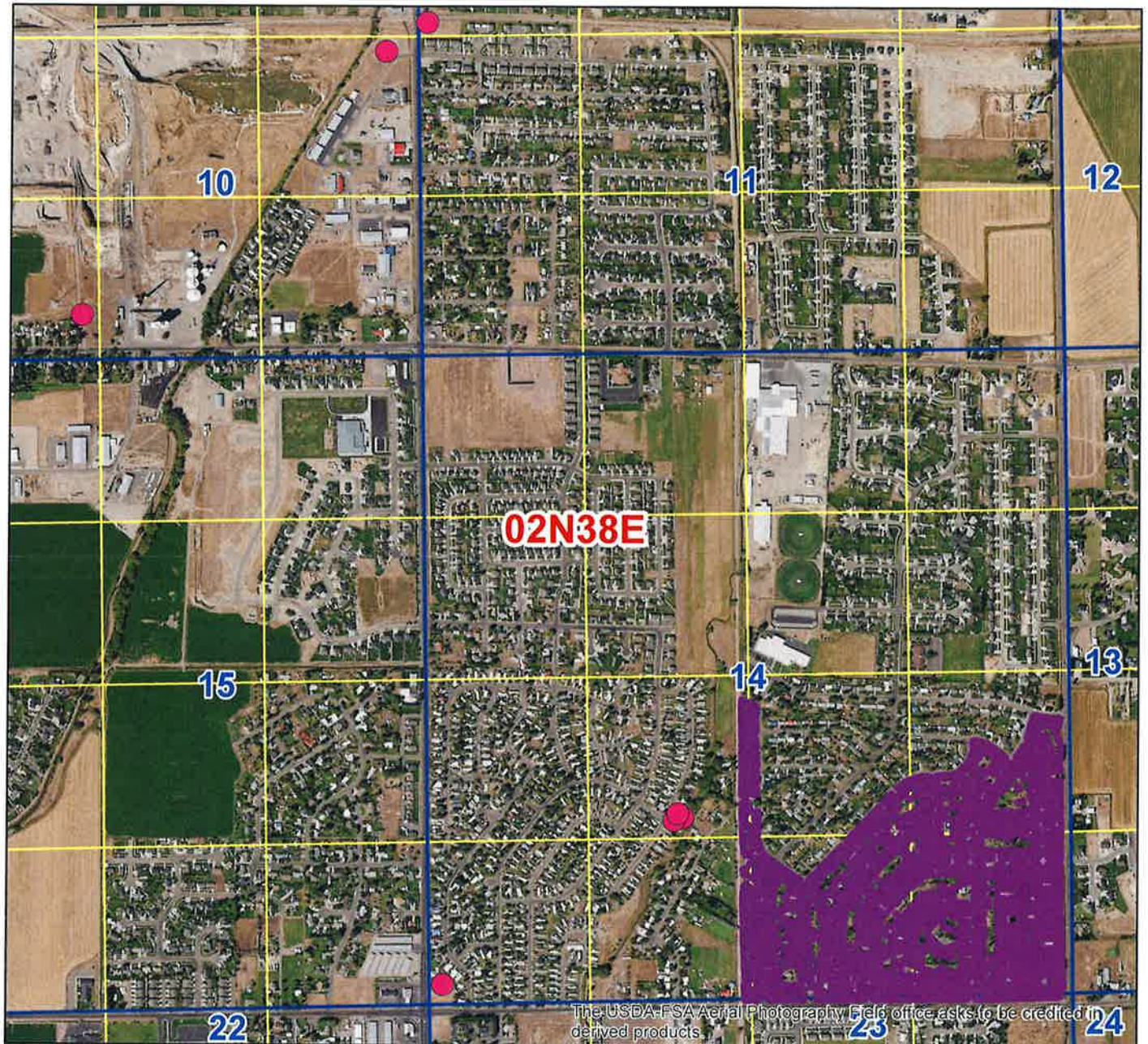
CONDITIONS OF APPROVAL

1. Rights 1-7017 and 35-7720 when combined shall not exceed the irrigation of 47.9 acres.
2. Use of water under this right is subject to control by the watermaster of State Water District No. 1, Snake River.
3. A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.
4. Water is delivered through Tomchak B #1 pump.
5. The right holder must obtain adequate supplemental water for the irrigation season that natural flow is not available.
6. 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.

Transfer No. 84009

Attachment to Transfer Approval 84009

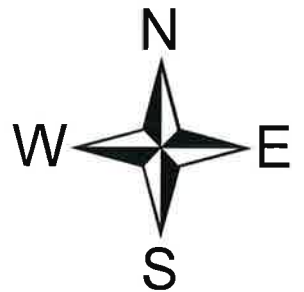
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- WR POU
- Township/Range
- Sections
- QQ

0 750 1,500 3,000 Feet



Date: 5/6/2021

Attachment to Transfer Approval 84009

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 POD
- WR POU
- Township/Range
- Sections
- QQ

0 250 500 1,000 Feet



Date: 5/6/2021



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 6, 2021

ROCKY MOUNTAIN WATER EXCHANGE LLC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402

Re: Transfer No: 84009
Water Right No(s): 1-7017, 35-2604, 35-7720

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

PT ELLIOTT LLC
392 N 4500 E
RIGBY ID 83442-5596

WAYNE A JENSEN
2777 N 26 W
IDAHO FALLS ID 83402

BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

AMERICAN FALLS RESERVOIR DISTRICT 2
MINIDOKA IRRIGATION DISTRICT
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 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.: 84009
Water Right No(s): 1-7017, 35-2604, 35-7720

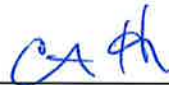
ROCKY MOUNTAIN WATER EXCHANGE LLC
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

PT ELLIOTT LLC
392 N 4500 E
RIGBY ID 83442-5596

WAYNE A JENSEN
2777 N 26 W
IDAHO FALLS ID 83402

BURLEY IRRIGATION DISTRICT
MILNER IRRIGATION DISTRICT
NORTH SIDE CANAL CO LTD
TWIN FALLS CANAL COMPANY
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

AMERICAN FALLS RESERVOIR DISTRICT 2
MINIDOKA IRRIGATION DISTRICT
FLETCHER LAW OFFICE
PO BOX 248
BURLEY ID 83318



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.