

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84817**

This is to certify that: **ROBERT AND DALE RUSSELL LIVING TRUST**
6091 EAST GATEWAY CT
BOISE, ID 83716

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>
63-7209	WR/DECREED	4/2/1969	0.040 cfs	1.4 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-7209	NO	YES	NO	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>
63-7209	63-7209	0.040 cfs	1.4 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 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 13th day of April, 2021.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-7209**As Modified by Transfer No. 84817**

In accordance with the approval of Transfer No. 84817, Water Right No. 63-7209 is now described as follows:

Right Holder: ROBERT AND DALE RUSSELL LIVING TRUST
6091 EAST GATEWAY CT
BOISE, ID 83716

Priority Date: 4/2/1969

Source: GROUND WATER

BENEFICIAL USE

DOMESTIC
STOCKWATER

From

1/01
1/01

to 12/31
to 12/31

Diversion Rate

0.020 cfs
0.020 cfs
0.040 cfs

Diversion Volume

1.2 af
0.2 af
1.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 17 Twp 04N Rge 02E ADA County

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	02E	17									X								

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	
04N	02E	17									X								

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
2. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
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.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 84817

WATER RIGHT NO. 63-7209
As Modified by Transfer No. 84817

CONDITIONS OF APPROVAL

5. 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 RESOURCES
WESTERN REGION

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Well, pump, pressurized system. Measuring device and lockable controlling works will be accommodated upon department request.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and 1/4 1/4 of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C*.

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

RM Russell Robert M Russell 03-17-2021
Signature of applicant or authorized agent Print name and title if applicable Date

Signature of applicant or authorized agent Print name and title if applicable Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by CJ Date 03/22/2021

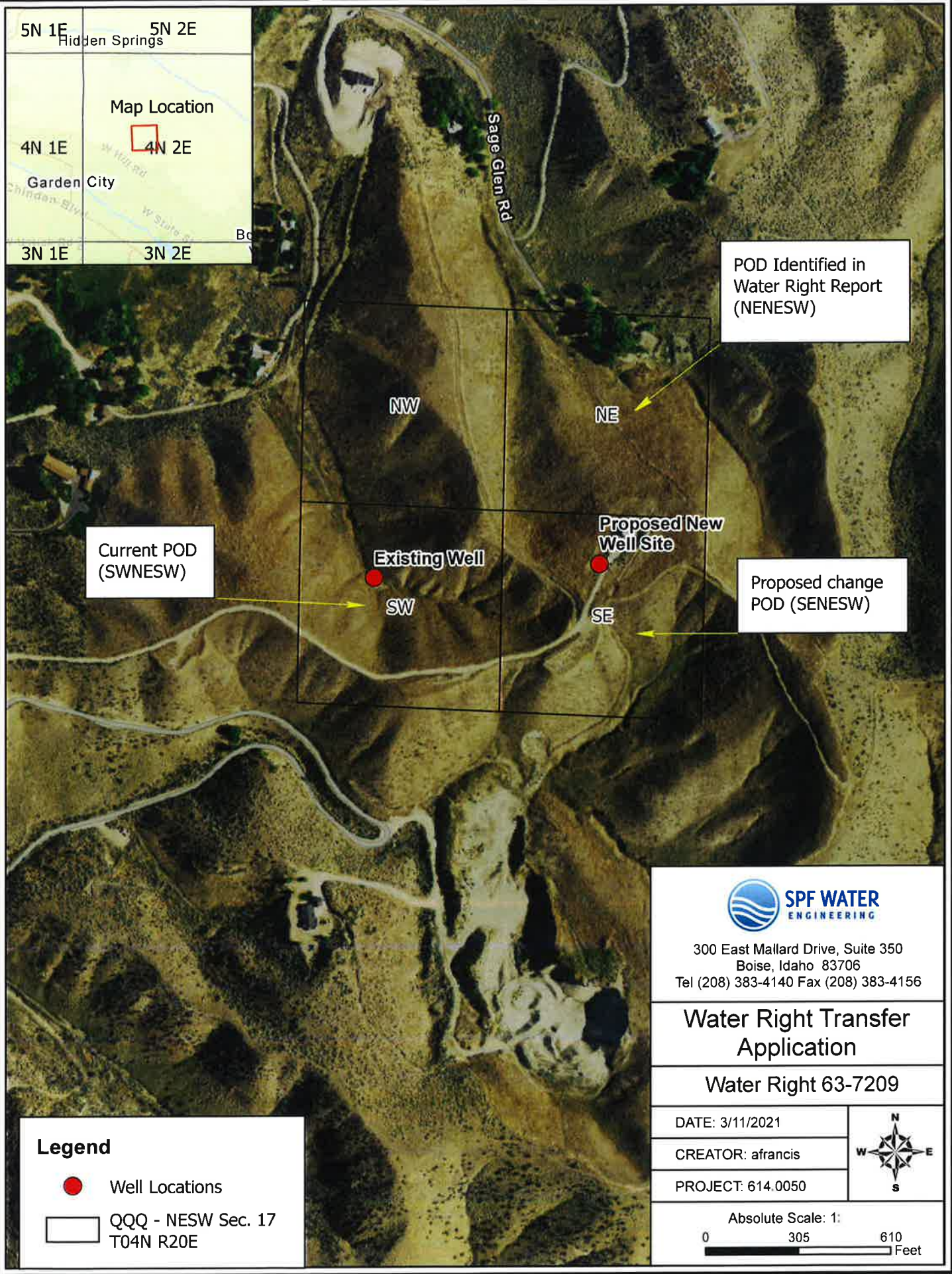
Fee paid \$200.00 Date 03/22/2021 Received by CJ Receipt # W049219

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Path: S:\PROJECTS\17000 Domestic Well Relocation\PROJECT\GIS\ArcMap\Projects\Domestic Well Relocation\Domestic Well Relocation.aprx



POD Identified in Water Right Report (NENESW)

Current POD (SWNESW)

Proposed change POD (SENESW)



300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

Water Right Transfer Application

Water Right 63-7209

DATE: 3/11/2021
CREATOR: afrancis
PROJECT: 614.0050



Legend

- Well Locations
- QQQ - NESW Sec. 17 T04N R20E

Absolute Scale: 1:
0 305 610 Feet

DEED BY PERSONAL REPRESENTATIVE

797-43565 KB

THIS DEED, made by SHERYL KOVAL, as personal representative of the Estates of Lula Mae Baird and Scott Baird, Deceased, Grantor, to ROBERT M. RUSSELL and DALE D. RUSSELL, husband and wife, as Grantees, whose address is 4249 W. Quail Ridge Drive Boise, Idaho 83703.

The Grantor is the qualified personal representatives of said estates, filed as Probate Number SP IE 9600251M, Fourth Judicial District Court, in Ada County, Idaho; and

For valuable consideration received, Grantor grants, conveys and releases to Grantees the following described real property in Ada County, Idaho:

A parcel of land lying in Section 17, Township 4 North, Range 2 East, Boise Meridian, more particularly described as follows:

Commencing at the section corner common to Sections 17, 18, 19 and 20 in Township 4 North, Range 2 East, Boise Meridian; thence North 23°31' East a distance of 2875.10 feet; thence North 75°39' East a distance of 514.87 feet; thence South 51°13' East a distance of 199.11 feet; thence South 08°42' East a distance of 488.77 feet to a steel pin, the REAL POINT OF BEGINNING; thence South 18°38' East a distance of 287.65 feet to a steel pin; thence South 50°22' East a distance of 408.10 feet to a steel pin; thence North 60°05' East a distance of 538.40 feet to a steel pin; thence North 03°16' East a distance of 237.40 feet to a steel pin; thence North 88°14' West a distance of 886.83 feet to a steel pin, the REAL POINT OF BEGINNING.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to such premises, but subject to current year taxes and any and all easements, rights of way and any other matters of record or title.

EXECUTED this 22nd day of August, 1997.

Sheryl Koval
Sheryl Koval,
Personal Representative of the
Estates of Lula Mae Baird and
Scott Baird, Deceased.

STATE OF Washington)
County of King) ss.

On the 22nd day of August, 1997, before me, appeared Sheryl Koval, known to me to be the person whose name is subscribed to the within instrument, as personal representative of the Estates of Lula Mae Baird and Scott Baird, and acknowledged to me that she executed the same as such personal representative.

IN WITNESS WHEREOF I have hereunto signed my name and affixed my official seal the day and year first above written.



Nancy K Whitehead
Notary Public for Washington
Residing at Seattle
Commission Expires: 12/10/97
K:\Koval.Dd2
Nancy K. Whitehead

97073869

ADA CO. RECORDER
J. DAVID NAVARRO
BOISE ID

TRANSACTION TITLE & ESCROW

'97 SEP 9 PM 4 14

FEE 6.00 DEP J. Weaver
RECORDED AT THE REQUEST OF



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

April 13, 2021

ROBERT AND DALE RUSSELL LIVING TRUST
6091 E GATEWAY CT
BOISE ID 83716-9094

RE: Transfer No: 84817
Water Right No(s): 63-7209

Transfer Approval Notice

Dear Water Right Holder(s):

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) 334-2190.

Sincerely,


DENISE LAUERMAN

for

Nick Miller
Western Regional Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC
300 E MALLARD DR STE 350
BOISE ID 83706

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 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.: 84817
Water Right No(s): 63-7209

ROBERT AND DALE RUSSELL LIVING TRUST
6091 E GATEWAY CT
BOISE ID 83716-9094

SPF WATER ENGINEERING LLC
300 E MALLARD DR STE 350
BOISE ID 83706

A handwritten signature in blue ink, reading "Denise Lauerman", is written over a horizontal line.

Denise Lauerman
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

TO: Transfer No. 84817
FROM: Tyler Smith
DATE: 3/31/21
RE: Evaluation of Application

Summary of Information Submitted

Robert & Dale Russell Living Trust (Trust) is a property owner in Ada County. The Trust filed transfer no. 84817 to change the ownership and change the point of diversion for water right no. 63-7209. The new point of diversion will be a new domestic well to supply domestic and stockwater uses for the property.

Andrew Francis of SPF Water Engineer is the representative for the transfer. Mr. Francis can be reached at 208-383-4140 or afrancis@spfwater.com.

Authority to File

The transfer was filed in the name of Robert & Dale Russell Living Trust, and was signed by Robert Russell. The transfer proposes an ownership change, and included a deed for the relevant property for the water right. The deed and current tax lot data show that the Trust is the current land owner and has the authority to file the ownership change.

The ownership change was processed prior to the processing of the transfer, resulting in 63-7209 to Robert & Dale Russell Living Trust.

Water Right Validity

The partial decree for water rights no. 63-7209 was issued on 12/29/1999. The right is presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, or other evidence. Evidence of beneficial use does not need to be added to the file it is an IDWR product available to other staff.

Injury to Other Water Rights

None anticipated. The right being transferred is for groundwater within the Basin 63 groundwater restricted area upstream of Star Bridge. However, the right is limited to 13,000 gal per day and will therefore not be required to seal to a confining layer greater than 200' below surface level.

Enlargement of Use

The source, diversion rate and annual volume authorized by the right will remain the same, and therefore enlargement of the use is not of concern.

Local Public Interest

No information has been made available to suggest a conflict with public interest.

Beneficial Use/Conservation of Water Resources

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

Assuming other information not yet discovered does not contradict the above analysis, the application can be approved as reflected by the draft approval.



March 18, 2021

RECEIVED

MAR 22 2021

WATER RESOURCES
WESTERN REGION

Patrick Kelly
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: Application for Transfer and Change of Ownership

Dear Patrick,

Enclosed on behalf of Robert & Dale Russell Living Trust, is an *Application for Transfer* proposing moving the point of division (POD) for a domestic well to a different quarter-quarter-section and changing ownership of the Water Right. The current Water Right Report has the incorrect POD. The POD as identified on the Water Right Report is listed as NENESW. The actual POD is located in SWNESW and the proposed transfer is to SENESW. The owner on the Water Report is listed as Scott Baird and need to be changed to Robert & Dale Russell Living Trust. Check #015766 is enclosed for the application filing fee.

Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Andrew Francis
Project Hydrogeologist

Enclosures:

Transfer application
Application filing fee
Map of diversion
Property Deed

SPF file number: 614.0050