

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84696**

This is to certify that: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

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>
37-21112	WR/DECREED	3/24/1883	1.419 cfs	N/A	N/A	53.0	BIG WOOD RIVER

Purpose of Transfer (Changes Proposed)

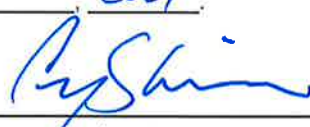
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-21112	YES	NO	YES	YES	NO	NO

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>
37-21112	37-23281	0.030 cfs	N/A	N/A	1.0	37-21112	1.389 cfs	N/A	N/A	52.0
COMBINED TOTALS		0.030 cfs	N/A	N/A	1.0		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 19th day of March, 2021.



Southern Region Manager

SUPPORT DATA

IN FILE # 37-23112

Transfer No. 84696

WATER RIGHT NO. 37-21112

As Modified by Transfer No. 84696

In accordance with the approval of Transfer No. 84696, Water Right No. 37-21112 is now described as follows:

Right Holder: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

Priority Date: 3/24/1883

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 11/15

Diversion Rate

1.389 cfs

1.389 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE 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	18E	9	6.0																6.0
02N	18E	10						37.0	9.0										46.0

POU Total Acres: 52.0

CONDITIONS OF APPROVAL

1. This right is a split from former right 37-12818A.
2. Right 37-12818A is a split from former right 37-577.
3. A portion of this water right is used for conveyance.
4. 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. 84696

WATER RIGHT NO. 37-23281

As Modified by Transfer No. 84696

In accordance with the approval of Transfer No. 84696, Water Right No. 37-23281 is now described as follows:

Right Holder: MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

Priority Date: 3/24/1883

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE
IRRIGATION

From 04/15 **To** 11/15

Diversion Rate
0.030 cfs
0.030 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER SWNW Sec 20 Twp 03N Rge 18E BLAINE County
BIG WOOD RIVER L1 (SENE) Sec 2 Twp 01N Rge 18E BLAINE 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	
01N	18E	2	1.0																1.0
			L 1																

POU Total Acres: 1.0

CONDITIONS OF APPROVAL

- 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. 37.
- The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
- This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
- Surface water from the Big Wood River shall continue to be diverted at a rate of 0.01 cfs into the Hiawatha Canal for conveyance losses.
- The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 84696

WATER RIGHT NO. 37-23281

As Modified by Transfer No. 84696

CONDITIONS OF APPROVAL

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

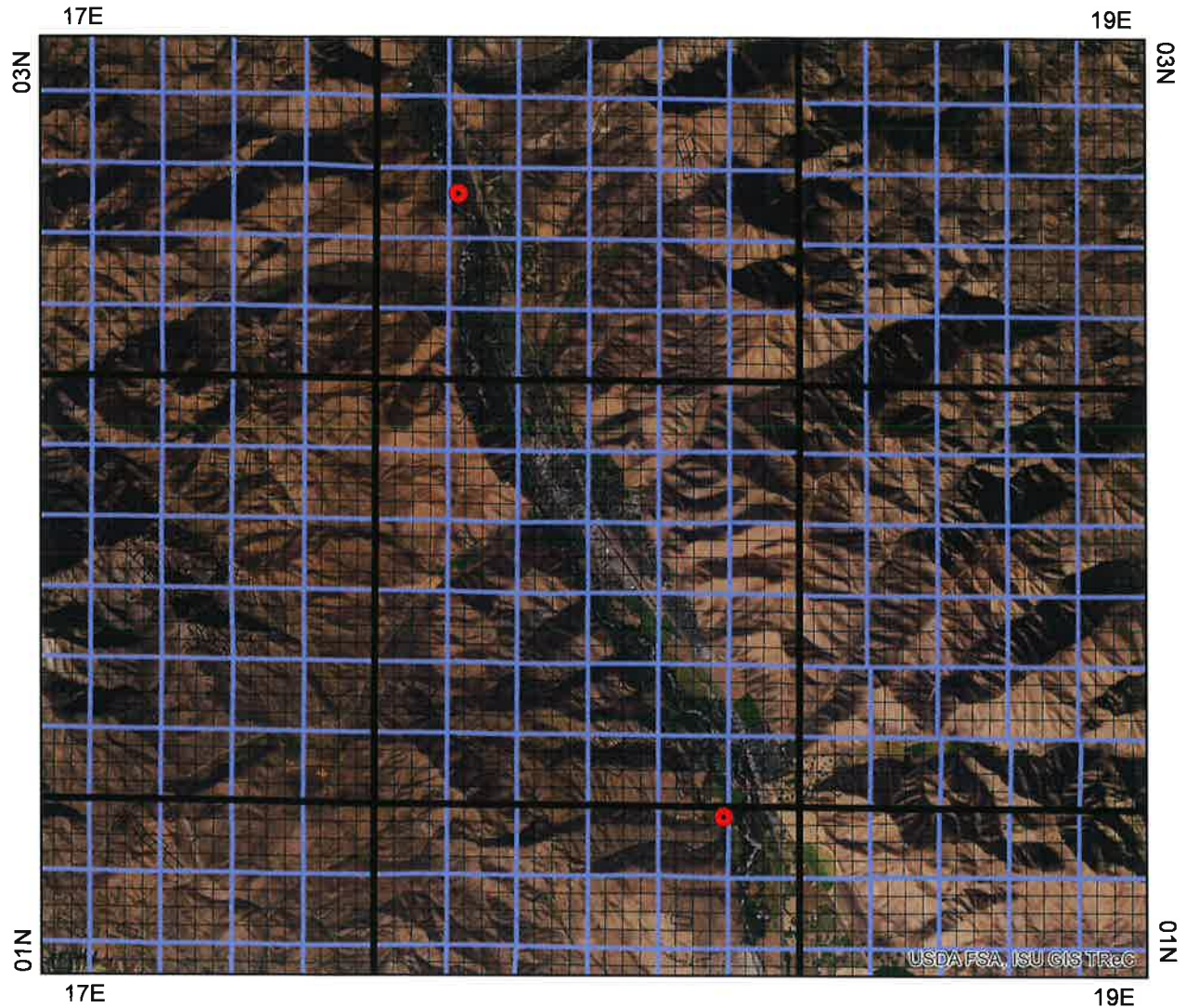


State of Idaho
Department of Water Resources

Attachment to Transfer # 84696

37-23281

This map depicts the points of diversion for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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

0 1.5 3 6 Miles

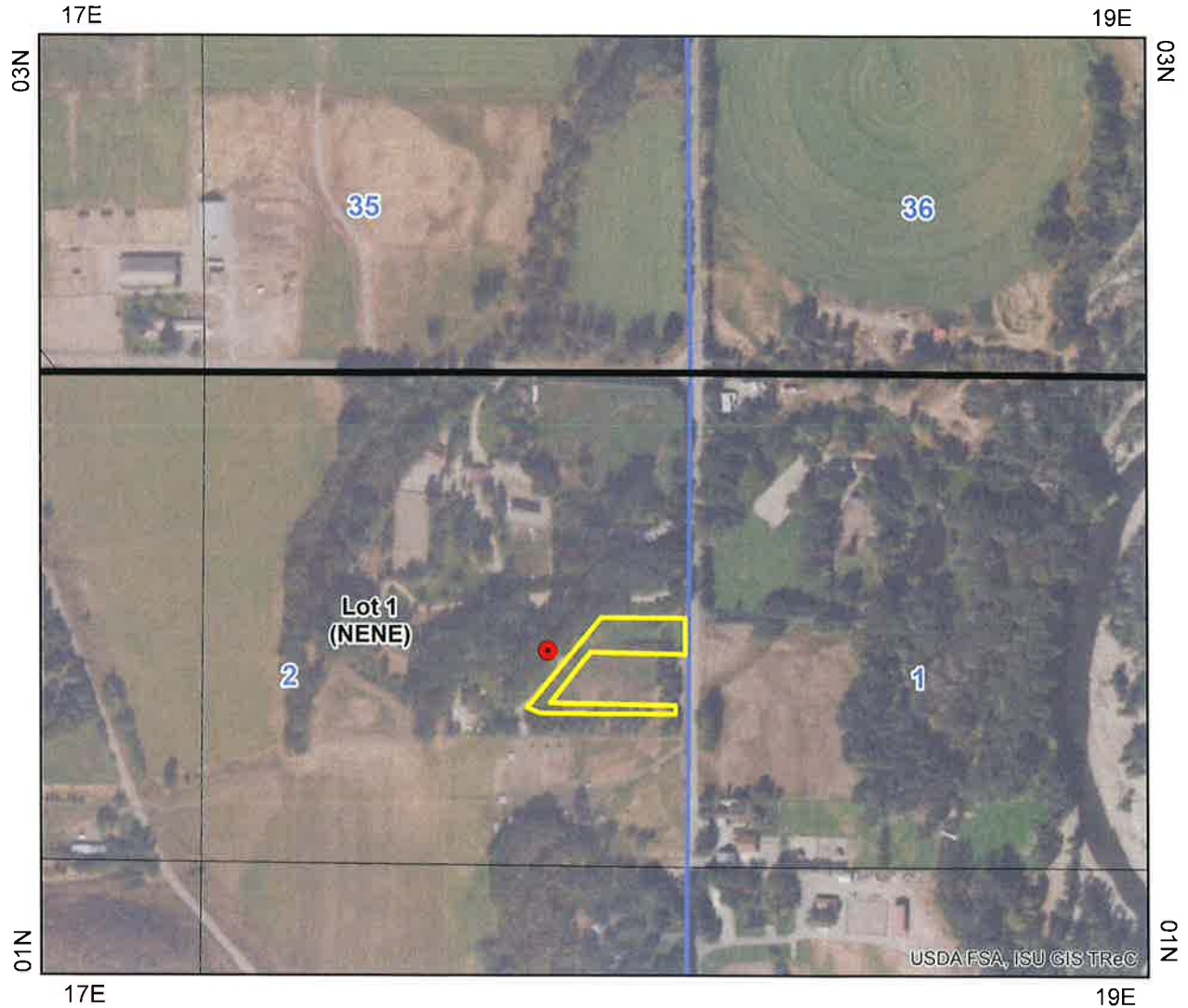


State of Idaho
Department of Water Resources

Attachment to Transfer # 84696

37-23281

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



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

0 0.05 0.1 0.2 Miles

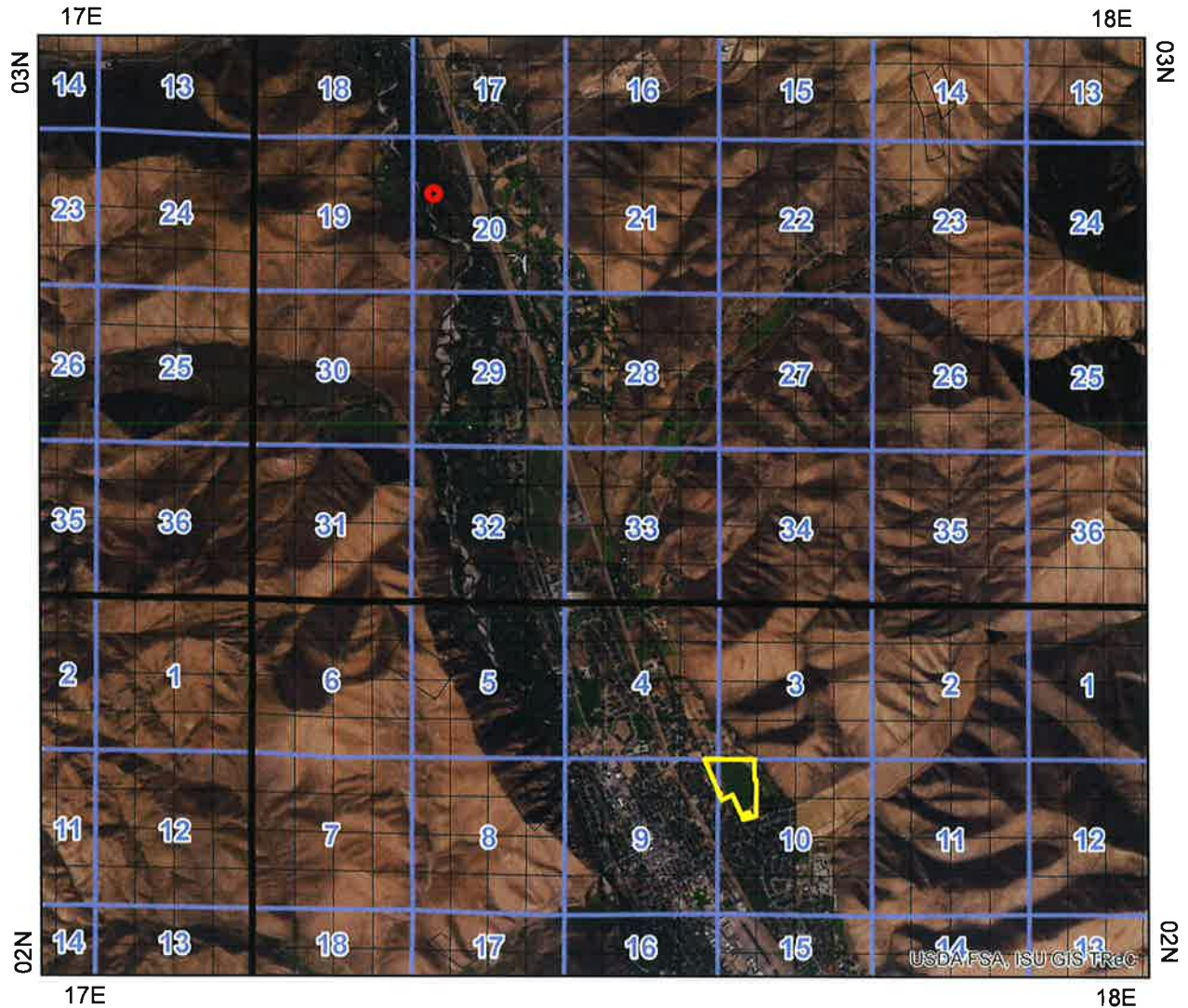


State of Idaho
Department of Water Resources

Attachment to Transfer # 84696

37-21112

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



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

0 0.75 1.5 3 Miles



State of Idaho
Department of Water Resources

Attachment to Transfer # 84696

37-21112

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



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

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: www.idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 22, 2021

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

Re: Transfer No: 84696
Water Right No(s): 37-21112

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
C/O ZACH LATHAM
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

JAMES P SPECK
C/O SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0998

KEVIN LAKEY
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 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.: 84696
Water Right No(s): 37-21112

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

BROCKWAY ENGINEERING PLLC
C/O ZACH LATHAM
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

JAMES P SPECK
C/O SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340-0998

KEVIN LAKEY
WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: March 11, 2021
To: Transfer 84696 File
From: Bill Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes moving a one acre (0.03 cfs) portion of Big Wood River Right 37-21112 (currently diverted from the Hiawatha Canal) from a property located approximately 0.4 to 0.6 miles east and 0.1 to 0.5 miles north of the center of Hailey to a property located 4.6 miles south and 2.4 miles east of the center of Hailey. The application proposes diverting 0.02 cfs from an existing diversion and leaving 0.01 cfs in the Hiawatha Canal to provide for conveyance losses.

Overlap review indicates there are five Big Wood River rights currently diverted from the proposed point of diversion: 37-23230; 37-23232; 37-23234; 37-23236 & 37-23238. These rights are combined and used to irrigate a 1 are place of use along with ground water right 37-23233. Proposed place of use is adjacent to the place of use for the six rights but does not overlap.

Current and proposed PODs and POUs are within Water District 37. Watermaster comments were solicited and the Watermaster did not respond with comments for this application.

- **Authority to File:**

Applicant owns the water right in the transfer. Per an agreement for purchase and sale of water rights, the owner of the property at the proposed POU will change ownership of the portion of the water right transferred to their property after the transfer is approved.

- **Water Right Validity:**

Water right 37-21112 was decreed in the SRBA on 3/20/2012. Recent aerial imagery indicates grounds associated with the water right appears irrigated.

- **Injury to Other Water Rights:**

None anticipated.

- **Enlargement of Use:**

None anticipated.

- **Local Public Interest:**

No issues anticipated.

- **Beneficial Use/Conservation of Water Resources:**

Proposed uses are recognized as beneficial uses of water.

- **Effect on the Economy of the Local Area:**

None Anticipated.

- **Effect on Agricultural Base of the Local Economy:**

None Anticipated.

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

AFFIDAVIT of PUBLICATION

RECEIVED
MAR 01 2021

COPY OF NOTICE

State of Idaho
County of Blaine

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Pam Morris, being the first party
sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 17th day of

February, 20 21, and the date of the last publication was on the 24th day of February, 20 21

Subscribed and sworn to before me this 24 day of

Feb., 20 21.



Connie N Johnson
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2024

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340
COST OF PUBLICATION

Number of Picas per Line 11.5
Number of Lines in Notice 71
Number of Insertions 2

Lines tabular at 9.0 cents/pica
71 Lines straight at \$65.32 8.0 cents/pica
71 Subsequent lines at \$57.16 7.0 cents/pica
TOTAL COST \$122.48

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 84670

PICABO LIVESTOCK CO, PO BOX 688, PICABO, ID 83348-0688 has filed Application No. 84670 for changes to the following water rights within BLAINE County(s): Right No(s). 37-11628, 37-21400, 37-7455. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to modify three ground water rights (municipal and stockwater) that have a combined limit of .76 cfs by replacing one of two points of diversion. The proposed new replacement well will be drilled approximately 1400 feet southwest of the center of Picabo.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 84696

MARATHON PARTNERS LLC, PO BOX 3118, KETCHUM, ID 83340-3101 has filed Application No. 84696 for changes to the following water rights within BLAINE County(s): Right No(s). 37-21112. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes moving a one acre (0.03 cfs) portion of a Big Wood River right (currently diverted from the Hiawatha Canal) from a property located approximately 0.4 to 0.6 miles east and 0.1 to 0.5 miles north of the center of Hailey to a property located 4.6 miles south and 2.4 miles east of the center of Hailey. The application proposes diverting 0.02 cfs from an existing diversion and leaving 0.01 cfs in the Hiawatha Canal to provide for conveyance losses.

✓ Am 3/8/2021

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see research. ldwr.idaho.gov/apps/waterrights/QueryNewTransfers. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **March 8, 2021**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
FEB 17 & 24, 2021

✓ ok LM 3/8/2021