

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83899**

This is to certify that: ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

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>
51-10252	WR/DECREED	2/15/1925	11.460 cfs	N/A	155.0	263.7	BRUNEAU RIVER
51-27B	WR/DECREED	4/1/1875	1.800 cfs	N/A	175.0	263.7	BRUNEAU RIVER
51-28B	WR/DECREED	4/1/1897	0.660 cfs	N/A	175.0	263.7	BRUNEAU RIVER
51-29B	WR/DECREED	4/1/1905	0.180 cfs	N/A	175.0	263.7	BRUNEAU RIVER
51-30	WR/DECREED	4/1/1905	0.760 cfs	N/A	51.9	263.7	BRUNEAU 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>
51-10252	NO	YES	YES	NO	NO	NO
51-27B	NO	NO	YES	YES	NO	NO
51-28B	NO	NO	YES	YES	NO	NO
51-29B	NO	NO	YES	YES	NO	NO
51-30	NO	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>
51-10252	51-10252	11.460 cfs	N/A	155.0	703.0	N/A	N/A	N/A	N/A	N/A
51-27B	51-27B	1.800 cfs	N/A	175.0	703.0	N/A	N/A	N/A	N/A	N/A
51-28B	51-28B	0.660 cfs	N/A	175.0	703.0	N/A	N/A	N/A	N/A	N/A
51-29B	51-29B	0.180 cfs	N/A	175.0	703.0	N/A	N/A	N/A	N/A	N/A
51-30	51-30	0.760 cfs	N/A	51.9	703.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		14.860 cfs	N/A	264.0	703.0		N/A	N/A	N/A	N/A

Transfer No. 83899

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 83899

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 January, 2021.

Patricia M. Mullen
for, Chief, Water Allocation Bureau



WATER RIGHT NO. 51-27B**As Modified by Transfer No. 83899**

In accordance with the approval of Transfer No. 83899, Water Right No. 51-27B is now described as follows:

Right Holder: ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

Priority Date: 4/1/1875

Source: BRUNEAU RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

3/01
1/01

To

to 11/15
to 12/31

Diversion Rate

1.800 cfs
0.050 cfs
1.800 cfs

LOCATION OF POINT(S) OF DIVERSION

BRUNEAU RIVER	SESE	Sec 25 Twp 06S Rge 05E	OWYHEE County
BRUNEAU RIVER	NENW	Sec 31 Twp 06S Rge 06E	OWYHEE County
BRUNEAU RIVER	SWSE	Sec 5 Twp 07S Rge 06E	OWYHEE 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	
06S	05E	25				1.0					40.0			40.0	40.0	40.0	40.0	40.0	241.0
06S	05E	36	40.0	40.0		10.0													90.0
06S	06E	30			5.0				19.0	35.0	40.0	40.0	40.0	40.0	11.0	31.0	40.0	38.0	339.0
06S	06E	31					26.0	7.0											33.0

Right Acre Limit: 175.0

POU Total Acres: 703.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25									X			X	X	X	X	X	
06S	05E	36	X	X		X													

WATER RIGHT NO. 51-27B
As Modified by Transfer No. 83899

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 175 acres within the 703 acre place of use authorized by this right in a single irrigation season. The specific 175 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 175 acres to be irrigated within the 703 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.
2. Rights 51-27B, 51-28B, and 51-29B when combined shall not exceed a total irrigation of 175 acres in a single irrigation season.
3. Rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 when combined shall not exceed a total irrigation of 264 acres in a single irrigation season.
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 place of use.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial 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 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. 51-28B**As Modified by Transfer No. 83899**

In accordance with the approval of Transfer No. 83899, Water Right No. 51-28B is now described as follows:

Right Holder: ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

Priority Date: 4/1/1897

Source: BRUNEAU RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	3/01	to 11/15	0.660 cfs
STOCKWATER	1/01	to 12/31	0.050 cfs
			0.660 cfs

LOCATION OF POINT(S) OF DIVERSION

BRUNEAU RIVER	SESE	Sec 25 Twp 06S Rge 05E	OWYHEE County
BRUNEAU RIVER	NENW	Sec 31 Twp 06S Rge 06E	OWYHEE County
BRUNEAU RIVER	SWSE	Sec 5 Twp 07S Rge 06E	OWYHEE 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	
06S	05E	25				1.0					40.0			40.0	40.0	40.0	40.0	40.0	241.0
06S	05E	36	40.0	40.0		10.0													90.0
06S	06E	30			5.0				19.0	35.0	40.0	40.0	40.0	40.0	11.0	31.0	40.0	38.0	339.0
06S	06E	31					26.0	7.0											33.0

Right Acre Limit: 175.0

POU Total Acres: 703.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25									X			X	X	X	X	X	
06S	05E	36	X	X		X													

WATER RIGHT NO. 51-28B
As Modified by Transfer No. 83899

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 175 acres within the 703 acre place of use authorized by this right in a single irrigation season. The specific 175 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 175 acres to be irrigated within the 703 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.
2. Rights 51-27B, 51-28B, and 51-29B when combined shall not exceed a total irrigation of 175 acres in a single irrigation season.
3. Rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 when combined shall not exceed a total irrigation of 264 acres in a single irrigation season.
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 place of use.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial 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 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. 51-29B**As Modified by Transfer No. 83899**

In accordance with the approval of Transfer No. 83899, Water Right No. 51-29B is now described as follows:

Right Holder: ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

Priority Date: 4/1/1905

Source: BRUNEAU RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

3/01
1/01

To

to 11/15
to 12/31

Diversion Rate

0.180 cfs
0.050 cfs
0.180 cfs

LOCATION OF POINT(S) OF DIVERSION

BRUNEAU RIVER	SESE	Sec 25 Twp 06S Rge 05E	OWYHEE County
BRUNEAU RIVER	NENW	Sec 31 Twp 06S Rge 06E	OWYHEE County
BRUNEAU RIVER	SWSE	Sec 5 Twp 07S Rge 06E	OWYHEE 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	
06S	05E	25				1.0					40.0			40.0	40.0	40.0	40.0	40.0	241.0
06S	05E	36	40.0	40.0		10.0													90.0
06S	06E	30			5.0				19.0	35.0	40.0	40.0	40.0	40.0	11.0	31.0	40.0	38.0	339.0
06S	06E	31					26.0	7.0											33.0

Right Acre Limit: 175.0

POU Total Acres: 703.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25									X			X	X	X	X	X	
06S	05E	36	X	X		X													

WATER RIGHT NO. 51-29B
As Modified by Transfer No. 83899

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 175 acres within the 703 acre place of use authorized by this right in a single irrigation season. The specific 175 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 175 acres to be irrigated within the 703 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.
2. Rights 51-27B, 51-28B, and 51-29B when combined shall not exceed a total irrigation of 175 acres in a single irrigation season.
3. Rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 when combined shall not exceed a total irrigation of 264 acres in a single irrigation season.
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 place of use.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial 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 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. 51-30
As Modified by Transfer No. 83899

In accordance with the approval of Transfer No. 83899, Water Right No. 51-30 is now described as follows:

Right Holder: ACE BLACK RANCHES
 28892 HOT SPRINGS RD
 BRUNEAU, ID 83604-5007

Priority Date: 4/1/1905

Source: BRUNEAU RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
 STOCKWATER

From

3/01
 1/01

to 11/15
 to 12/31

Diversion Rate

0.760 cfs
 0.050 cfs
 0.760 cfs

LOCATION OF POINT(S) OF DIVERSION

BRUNEAU RIVER	SESE	Sec 25 Twp 06S Rge 05E	OWYHEE County
BRUNEAU RIVER	NENW	Sec 31 Twp 06S Rge 06E	OWYHEE County
BRUNEAU RIVER	SWSE	Sec 5 Twp 07S Rge 06E	OWYHEE 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	
06S	05E	25				1.0					40.0			40.0	40.0	40.0	40.0	40.0	241.0
06S	05E	36	40.0	40.0		10.0													90.0
06S	06E	30			5.0				19.0	35.0	40.0	40.0	40.0	40.0	11.0	31.0	40.0	38.0	339.0
06S	06E	31					26.0	7.0											33.0

Right Acre Limit: 51.9

POU Total Acres: 703.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25									X			X	X	X	X	X	
06S	05E	36	X	X		X													

WATER RIGHT NO. 51-30
As Modified by Transfer No. 83899

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 51.9 acres within the 703 acre place of use authorized by this right in a single irrigation season. The specific 51.9 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 51.9 acres to be irrigated within the 703 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.
2. Rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 when combined shall not exceed a total irrigation of 264 acres in a single irrigation season.
3. 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.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
6. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
7. This right does not grant any right-of-way or easement across the land of another.
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. 51-10252**As Modified by Transfer No. 83899**

In accordance with the approval of Transfer No. 83899, Water Right No. 51-10252 is now described as follows:

Right Holder: ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU, ID 83604-5007

Priority Date: 2/15/1925

Source: BRUNEAU RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

3/01
1/01

to
to

To

11/15
12/31

Diversion Rate

11.460 cfs
0.050 cfs
11.460 cfs

LOCATION OF POINT(S) OF DIVERSION

BRUNEAU RIVER
BRUNEAU RIVER
BRUNEAU RIVER

SESE
NENW
SWSE

Sec 25 Twp 06S Rge 05E OWYHEE County
Sec 31 Twp 06S Rge 06E OWYHEE County
Sec 5 Twp 07S Rge 06E OWYHEE 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	
06S	05E	25				1.0					40.0			40.0	40.0	40.0	40.0	40.0	241.0
06S	05E	36	40.0	40.0		10.0								40.0	40.0	40.0	40.0	40.0	90.0
06S	06E	30			5.0				19.0	35.0	40.0	40.0	40.0	40.0	11.0	31.0	40.0	38.0	339.0
06S	06E	31					26.0	7.0											33.0

Right Acre Limit: 155.0

POU Total Acres: 703.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	05E	25									X			X	X	X	X	X	
06S	05E	36	X	X		X													

WATER RIGHT NO. 51-10252

As Modified by Transfer No. 83899

CONDITIONS OF APPROVAL

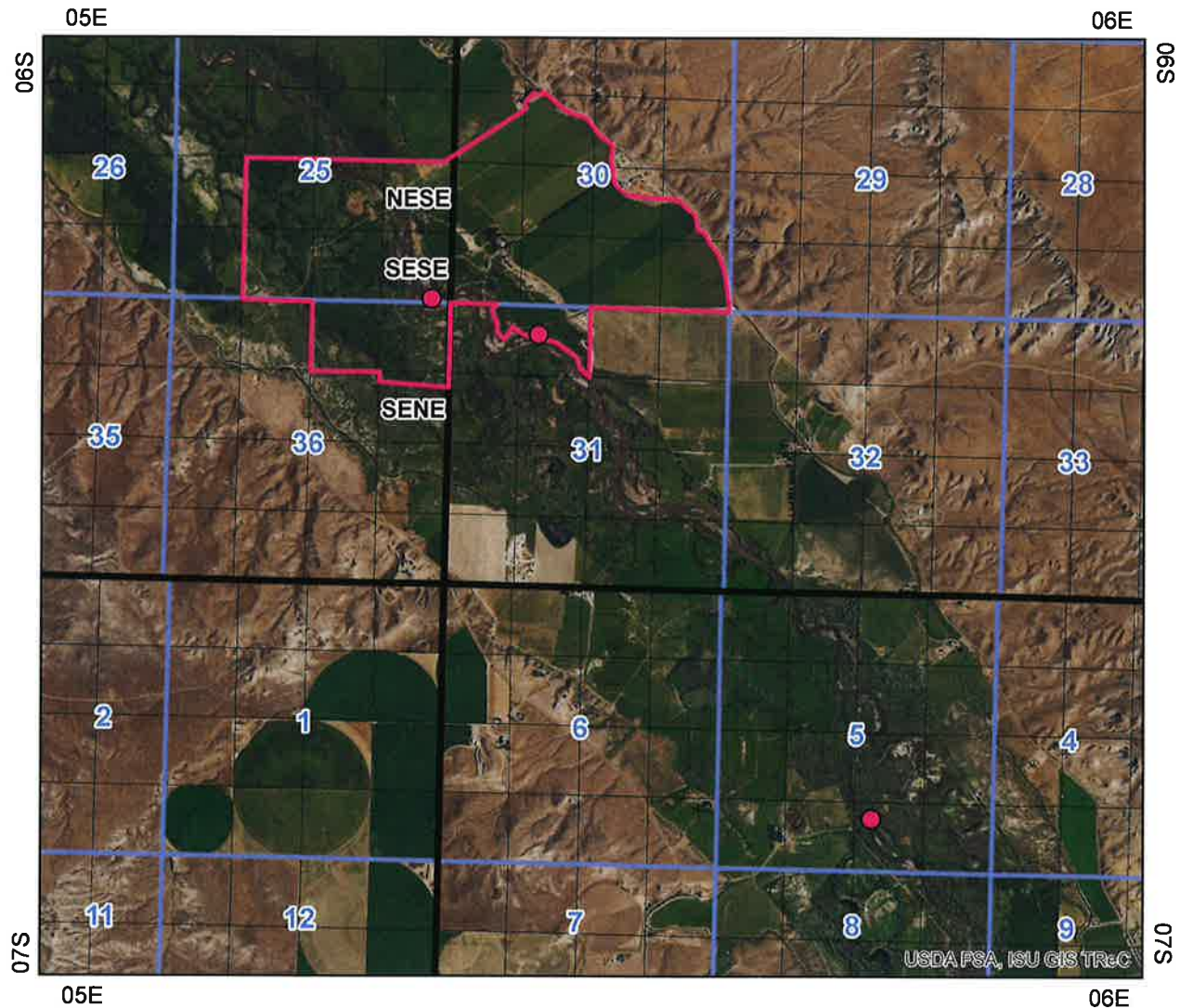
1. This right is limited to the irrigation of a specific 155 acres within the 703 acre place of use authorized by this right in a single irrigation season. The specific 155 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 155 acres to be irrigated within the 703 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.
2. Rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 when combined shall not exceed a total irrigation of 264 acres in a single irrigation season.
3. 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.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
6. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
7. This right does not grant any right-of-way or easement across the land of another.
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.

State of Idaho
Department of Water Resources

Attachment to Transfer Approval 83899

51-10252, 51-27B, 51-28B, 51-29B, and 51-30

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.



- Transfer POU
- Transfer PODs
- Townships
- PLS Sections
- Quarter Quarters

0 0.4 0.8 1.6 Miles





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

January 27, 2021

ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007

RE: Transfer No: 83899
Water Right No(s): 51-27B , 51-28B , 51-29B , 51-30, 51-10252

Transfer Approval Notice

Dear Water Right Holder(s) 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) 334-2190.

Sincerely,


DENISE LAUERMA

for Nick Miller
Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on January 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.: 83899

Water Right No(s): 51-27B , 51-28B , 51-29B , 51-30, 51-10252

ACE BLACK RANCHES
28892 HOT SPRINGS RD
BRUNEAU ID 83604-5007


for Nick Miller
Regional Manager

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. 83899
FROM: Anna Kaiser
DATE: January 25, 2021
RE: Evaluation of Application

Ace Black Ranch submitted transfer 83899 with transfer 83900 and application for permit 51-13137. All applications propose the same 703-acre permissible place of use (ppu) and will, in union with Bruneau Buckaroo Ditch Co. irrigation shares, provide up to 577 acres of irrigation to Ace Black's property by way of flood irrigation and a five-pivot sprinkler system.

Transfer no. 83899 involves water rights 51-27B, 51-28B, 51-29B, 51-30, and 51-10252 which divert water from Bruneau River. The transfer proposes 264 total acres of irrigation within the 703-acre ppu and proposes adding a point of diversion (POD) off the Bruneau River to all five listed water rights and allowing all five rights to utilize the same three PODs, representing and integrated system.

The site is located in Bruneau, Idaho about one mile south of State Highway 51, surrounding the Bruneau River.

Contact person for the applicant is Terry Black, 28892, Hot Springs Rd., Bruneau, ID 83604, (208)-845-2601.

Summary of Information Submitted

Authority to File:

Transfer 83899 was submitted in the name of Ace Black Ranches and signed by Terry Black. During transfer processing, ownership of all five above listed water rights was changed to Ace Black Ranches. Mr. Black submitted the required ownership change documentation with the transfer. The Idaho Secretary of State website lists Terry Black as a registered agent of Ace Black Ranches, giving him signing authority.

Water Right Validity:

Each of the five water rights involved in transfer 83899 was decreed in March or December of 2000. All rights are presumed valid because beneficial use has occurred within the last five years. Beneficial use is confirmed by department aerial imagery.

Injury to Other Water Rights:

Transfer 83899 is not expected to injure other water rights. The additional POD is proposed within Ace Black Ranches for an existing irrigation system. The intent of the additional POD is to provide Ace Black Ranches some diversion flexibility for the five involved rights. Proposed changes will not affect the current diversion rate of any right.

Enlargement of Use & Water Right Overlap:

Overlap:

The POU's of all five involved rights currently overlap, sharing a common 264-acre place of use (POU). There are no other water rights fully or partially overlapping these rights and no other Bruneau River rights should be considered.

Combined Use Limits:

The rights contain two combined use limit conditions. The first condition limits water rights 51-27B, 51-28B, and 51-29B to the irrigation of 175 acres within an irrigation season. The second limits all five rights to 264 acres within a single irrigation season. These two limiting conditions will be maintained through this transfer.

Enlargement:

Limits to each rights diversion rate, volume or acres are not changing, so long as the applicant adheres to the combined use conditions for the group, enlargement will not occur. The proposed added POD is within the immediate vicinity of the other POD's on the applicants land. This is not considered an improvement to the source. Surface shares from Bruneau Buckaroo Ditch Co (BBDC).

Local Public Interest:

Upon public advertisement, the Department notified Bruneau Buckaroo Co-operative Ditch Company (Bruneau Buckaroo) of Ace Black's transfer proposal. Bruneau Buckaroo protested transfer 89899 and has since unconditionally withdrawn their protest. No other evidence suggests transfer 83899 conflicts with the local 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.

Discussion

Ace Black Ranches initially submitted this transfer in union with transfer application no. 83900. Transfer 83900 proposes applying the 703-acre ppu boundary to water rights 51-7318, 51-7319, and 51-13137. The three rights involved in Transfer 83990 provide a 113-acre area of irrigation to the eastern side of the Bruneau River. As mentioned under "Local Public Interest," Bruneau Buckaroo protested each transfer application mainly on the basis of concern for injury to senior Bruneau Buckaroo rights. During protest discussions, it was determined Ace Black ought to apply for additional irrigation water to ensure Bruneau Buckaroo rights would not be injured. Ace black submitted a separate, but related application for permit no. 51-13137 to provide 200 more acres of irrigation within the 703-acre ppu. Bruneau Buckaroo unconditionally withdrew their protest of transfer 83899.

Ace Black historically receives 275 acres of irrigation from Bruneau Buckaroo shares for use exclusively on the eastern side of the Bruneau River per Bruneau Buckaroo's service area boundaries. This transfer does not authorize use of BBDC water on the east side of the Bruneau River. But since the system commingles water, the right holder must ensure the quantity delivered to the west side of the river does not exceed the amount diverted from the river.

Upon the approval of transfers 83899 and 83900, and permit application 51-13137, combined with Bruneau Buckaroo shares, Ace Black ranches can fully irrigate a total of 557 acres within their 703-acre ppu. Approximately 521 of those acres will be irrigated by five irrigation pivots- two on the western side of the river and three on the eastern side of the river. The remaining acres will be provided through flood irrigation. Additionally, up to 275 acres east of the river can be

irrigated with BBDC shares. So use of these rights on the east side of the river will supplement BBDC water.

A map showing the 703-acre ppu is enclosed with the transfer documents.

On January 14, 2021, department staff assisted the applicant by drafting pivot shapes that would fit within the property boundaries identified by the digital taxlot layer. Mr. Black contacted Patrick Kelly to confirm that he concurred with the shapes and their calculated areas in a telephone call on January 19, 2021.

Stockwater use was not confirmed through this transfer process. Conditions issued on the decree that limited the stockwater use were carried through the transfer approval.

Basin/Seq# Owner Source Use NENE NWNE SWNE SENE NENW NWNW SWNW SENW NESW NWSW SMSW SESW NESE NWSE SWSE SESE Total/Acres

06S05E25														TRANSFER NO. 83899																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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06S05E36																		
51-10252	BLACK, ALBERT	BRUNEAU RIVER	IRRIGATION	41	40		8.8											89.8
51-278	BLACK, ALBERT	BRUNEAU RIVER	IRRIGATION	41	40		8.8											89.8
51-288	BLACK, ALBERT	BRUNEAU RIVER	IRRIGATION	41	40		8.8											89.8
51-298	BLACK, ALBERT	BRUNEAU RIVER	IRRIGATION	41	40		8.8											89.8
51-30	BLACK, ALBERT	BRUNEAU RIVER	IRRIGATION	41	40		8.8											89.8
				41	40		8.8											89.8

TOTAL: 263.7

06S05E25														TRANSFER NO. 83900							
51-13127	ACE BLACK RANCHES	WASTE WATER	IRRIGATION											28		11					
51-7318	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION											28		6					
																					11
																					28
																					11

39

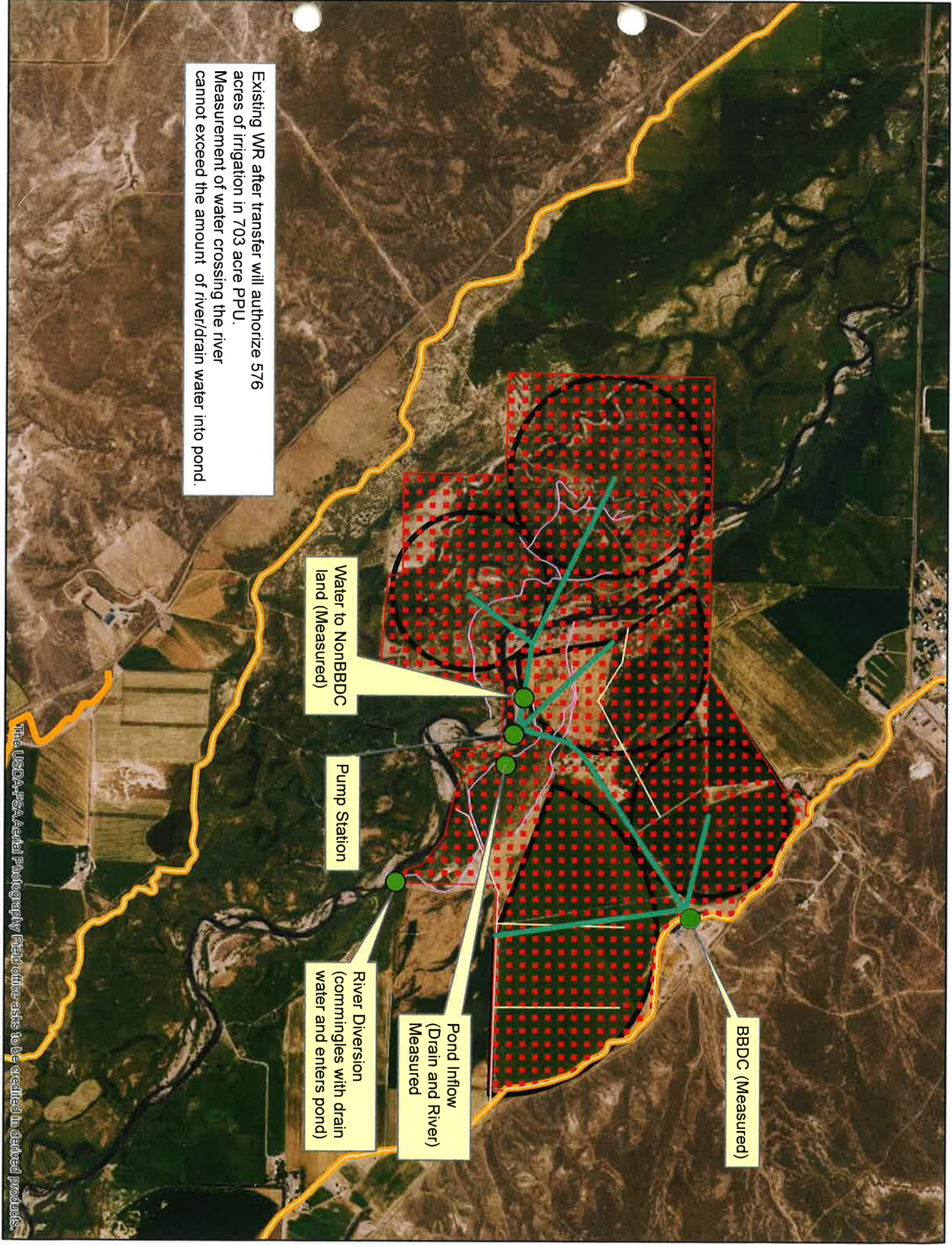
06S06E30																									
51-7318	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION																		21.4				
51-13127	ACE BLACK RANCHES	WASTE WATER	IRRIGATION									15	26	7							48				
																									48

06S06E31																									
51-13127	ACE BLACK RANCHES	WASTE WATER	IRRIGATION	1	19	6															26				
51-7318	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION																		8.3				
51-7319	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION	0.3	11	1.7															11.9				

48

06S06E31																	
51-13127	ACE BLACK RANCHES	WASTE WATER	IRRIGATION	1	19	6											26
51-7318	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION		6.6	1.7											8.3
51-7319	ACE BLACK RANCHES	UNNAMED DRAIN	IRRIGATION	0.3	11												11.3
				1	19	6											26

TOTAL 113



Existing WR after transfer will authorize 576 acres of irrigation in 703 acre PPU. Measurement of water crossing the river cannot exceed the amount of river/drain water into pond.

BBDc (Measured)

Pond Inflow (Drain and River) Measured

River Diversion (commingles with drain water and enters pond)

Pump Station

Water to NonBBDc land (Measured)



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: idwr.idaho.gov • Email: westerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 14, 2021

COPY

Terry,

Here are the two maps I am looking at. Transfer 83899 for Bruneau River water authorizes up to 264 acres. When I drew the shapes on the map that was submitted, Pivot # 4 does not fit within your permissible place of use (PPU) and property boundary. I shrunk it down so that it did and calculated all of the acreages. If you agree with what I have drawn, we can add it as an amendment to the transfer and move forward with the process.

Please take a look and let me know if you have questions. I will be back next week and we can discuss then.

Regards,

A handwritten signature in blue ink that reads "Patrick Kelly".

Patrick Kelly
Water Rights Supervisor
Emergency Agency Coordinator
2735 Airport Way
Boise, Idaho 83705
o: 208.334.2190
patrick.kelly@idwr.idaho.gov

