

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. 84696  
**RECEIVED \***  
JAN 19 2021

**MINIMUM REQUIREMENTS CHECKLIST**  
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

DEPT OF WATER RESOURCES  
ACCEPTABLE FOR PROCESSING

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at [idwr.idaho.gov](http://idwr.idaho.gov).

**\* COMPLETE APPLICATION  
(MISSING PAGES) RECEIVED 2/4/2021**

Name of Applicant(s) Marathon Partners LLC

**Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.**

**Yes N/A** \* Means the item is always required and must be included with the application.

- \* Completed Application for Transfer of Water Right form, Part 1.
- \* Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- \* Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- \* Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- \* Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

**Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.**

- #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. \*\*
- #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).\*\*  
\*\* Additional fee(s) required for water right ownership changes; see fee schedule.
- #3 Documentation of authority to make the change if the applicant is not the water right owner.
- #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at [idwr.idaho.gov/water-rights/transfers/resources.html](http://idwr.idaho.gov/water-rights/transfers/resources.html).
- #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- \* #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- #10 Other. Please describe: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 19 2021

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Name of Applicant(s) Marathon Partners LLC

Phone 208-726-4421

Mailing address P.O. Box 3118 Ketchum, ID 83340

Email \_\_\_\_\_

\* COMPLETE APPLICATION  
(MISSING PAGES)

RECEIVED 2/4/2021

- If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

No Representative

Name of Representative Zach Latham, Brockway Engineering PLLC

Phone 208-736-8543

Mailing address 2016 Washington St. North Suite #4 Twin Falls, ID 83301

Email zach.latham@brockwayeng.c

- Send all correspondence for this application to the representative and not to the applicant.  
**OR**
- Send original correspondence to the applicant and copies to the representative.
- The representative may submit information for the applicant but is not authorized to sign for the applicant.  
**OR**
- The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Edmund E. Dyrka  
Signature of Applicant or Authorized Representative

Edmund E. Dyrka  
Print Name and Title if applicable  
Manager, Marathon Partners, LLC

1/13/21  
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- 1.  Change point of diversion  Add diversion point(s)  Change place of use  
 Change nature of use  Change period of use  Other \_\_\_\_\_

2. Is this a transfer for changes pursuant to [Idaho Code § 42-221.O.8?](#)  
If yes,  attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

Applicant seeks to transfer 1.0 acre of 37-21112 to new place of use per attached purchase and sale agreement.  
0.01 cfs will be left in Hiawatha Canal for carrying loss makeup as a result of the transfer. Proposed place of use  
owner will file a change of ownership per the agreement after transfer approval.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

**B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

	<u>Right Number</u>	<u>Amount (cfs/ac-ft)</u>	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source &amp; Tributary</u>
All or Part <input type="checkbox"/> <input checked="" type="checkbox"/>	37-21112	0.03	Irrigation	4/15 to 11/15	Big Wood River / Malad R.
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	
<input type="checkbox"/> <input type="checkbox"/>				to	

Total authorized under rights 1.419 cfs and/or \_\_\_\_\_ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.03 cubic feet per second and/or \_\_\_\_\_ acre-feet per year.

3. Point(s) of Diversion:

- No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼			Sec	Twp	Rge	County	Source	Local name or tag #
		SE	NE	NW						
No		SE	NE	NE	2	1N	18E	BLAINE	Big Wood River	Existing Diversion
No			SW	NW	20	3N	18E	BLAINE	Big Wood River	Hiawatha Canal

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
1N	18E	2	1.0																1.0	

POU described as Blaine County Parcel RP01N18002040H	<b>Total Acres (for irrigation use)</b>	1.0
------------------------------------------------------	-----------------------------------------	-----

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1 Continued

5. 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:

An additional 1.0 acre is proposed to be irrigated at place of use through existing diversion and delivery system.

b. Who owns the property at the point(s) of diversion? Melanie McCray Nevins

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:  
See attached purchase and sale agreement, ownership will change upon transfer approval.

c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes,  attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: \_\_\_\_\_

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes,  complete Attachment WSB.

e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

1.0 acre will no longer be irrigated at current place of use associated with 37-21112.

f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

37-23233, 37-23234, 37-23235, 37-23236, 37-23237 and 37-23238.

g. 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 leased to the Water Supply Bank,
- currently used in a mitigation plan limiting the use of water under the right, or
- currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

N/A.



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 DEPT OF WATER RESOURCES  
 SOUTHERN REGION

IDAHO DEPARTMENT OF WATER RESOURCES  
 APPLICATION FOR TRANSFER OF WATER RIGHT  
 PART 2A

**Current Water Right No.:** 37-21112

Current Owner: MARATHON PARTNERS LLC  
 Priority Date: 3/24/1883  
 Origin: Water Right  
 Status: Active  
 Basis: Decreed

<u>Source</u>		<u>Tributary</u>	
BIG WOOD RIVER		MALAD RIVER	
<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 11/15	1,419 CFS	
	<u>Total Diversion</u>	1,419 CFS	
<u>Location of Point(s) of Diversion</u>			
BIG WOOD RIVER		SW1/4NW1/4	Sec. 20, Twp 03N, Rge 18E B.M.
BLAINE County			

**Place of Use**  
IRRIGATION Within BLAINE County

T02N R18E S9	NENE	6.00	T02N R18E S10	NWNW	37.00
T02N R18E S10	SWNW	10.00			
Total Acres: 53					

Conditions of Approval:

1. P21 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. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 3/2/2012



**AGREEMENT FOR PURCHASE AND SALE  
OF WATER RIGHTS**

THIS AGREEMENT FOR PURCHASE AND SALE OF WATER RIGHTS ("Agreement") is made and entered into this 28 day of September 2020, by and between MARATHON PARTNERS, LLC, an Idaho limited liability company (the "Seller"), and MELANIE MCCRAY NEVINS, a single woman (the "Buyer").

**RECITALS**

WHEREAS, the Seller owns Water Right 37-21112 for irrigation of fifty-three (53) acres appurtenant to land located in the City of Hailey, County of Blaine, State of Idaho (the "Water Right"); and

WHEREAS, the Buyer desires to purchase a portion of the Water Right from the Seller on the terms and conditions set forth below;

NOW, THEREFORE, inconsideration of the mutual covenants, promises and conditions set forth herein, it is agreed as follows:

**ARTICLE 1  
Sale of Water Right**

1.1 The Seller agrees to sell and convey, and the Buyer agrees to purchase, one (1) acre of the Water Right to be transferred to Buyer's intended use as described in the Transfer Application (the "Transfer Application") to be filed by the Buyer (the "Transferred Water Right").

**ARTICLE 2  
Purchase Price/Closing Date/Contingency**

2.1 The Purchase Price shall be

2.2 Earnest money:

2.2.1 Upon execution of this Agreement by both parties, the Buyer will immediately deposit into escrow with the law firm of Speck & Aanestad, A Professional Corporation, 120 East Avenue North, Ketchum, Idaho 83340 ("Escrow Agent") the sum of \_\_\_\_\_ as earnest money.

2.2.2 All earnest money identified in Section 2.2.1 shall be applied to the Purchase Price at Closing; however, in the event the IDWR does not approve the water right transfer on terms and conditions acceptable to Buyer, in Buyer's sole discretion, the earnest money shall be returned to Buyer, and all further obligations under this Agreement shall cease and become null and void.

2.3 Closing:

2.3.1 All earnest money, together with the balance of the Purchase Price, that is \_\_\_\_\_), shall be delivered to the Seller at Closing.

2.3.2 Unless the parties agree otherwise, in writing, Closing shall occur within fifteen (15) days after Idaho Department of Water Resources' ("IDWR") final and non-appealable order approving the Transfer Application, on terms and conditions acceptable to Buyer, in Buyer's sole discretion.

2.3.3 In the event the transfer of the Transferred Water Right is not approved by IDWR as described in Section 2.3.2, above, Buyer shall have the option, but not the obligation, to proceed to Closing.

2.3.4 In the event IDWR has approved the Transfer Application, all Seller's conditions to close are met and Buyer fails to close on the Closing Date, Buyer shall forfeit all earnest money to Seller.

2.4 Neither Seller nor Buyer has used a broker with respect to this transaction, and each agrees to indemnify and hold the other party harmless from any and all claims for a commission arising from third parties claiming to represent them in connection with this sale.

ARTICLE 3

Warranties and Disclaimer

3.1 Representations and Warranties. Buyer and Seller represent and warrant one to the other that they have the power and authority to enter into this Agreement and the further agreements contemplated hereby, to be bound by, and to perform such agreements. The Parties hereto provide the follow representations and warranties, all of which shall be valid as of Closing and survive Closing:

3.1.1 By Seller:

- i. Upon consummation of the contemplated purchase, the lands to which the Transferred Water Right are appurtenant will no longer be irrigated unless Seller develops or obtains and transfers a new water right to such lands for irrigation;
- ii. Seller has not assigned or conveyed, or contracted to assign or convey, the Transferred Water Right to any other person entity;
- iii. Seller has good and marketable title to the Water Rights; and
- iv. Seller has the legal power, right and authority to enter into this Agreement and to perform Seller's obligations hereunder.

3.1.2 By Buyer:

- i. Buyer has the legal power, right and authority to enter into this Agreement and to perform Buyer's obligations hereunder.

#### ARTICLE 4

##### Deed

- 4.1 Title shall be conveyed by a Water Rights Quitclaim Deed at Closing.

#### ARTICLE 5

##### Water Right Transfer

5.1 Transfer Application. Buyer shall pay for all fees and costs of the Transfer Application, whether or not it is approved by IDWR. Buyer shall file the Transfer Application within fifteen (15) business days from the date of this Agreement, unless an extension is agreed to in writing by the parties hereto. As the owner of the Water Right, Seller agrees to cooperate in the Transfer Application by signing any and all necessary documents to facilitate the transfer, and Seller agrees to support the transfer before IDWR or any other applicable governmental entity or political subdivision. In the event Buyer fails to timely submit the Transfer Application through no fault of Seller, Buyer shall forfeit all earnest money to Seller and this Agreement shall terminate.

#### ARTICLE 6

##### Miscellaneous Provisions

6.1 Survival of All Representations and Warranties. The representations, warranties, covenants and agreements of the Seller and Buyer contained in this Agreement shall survive the Closing hereunder.

6.2 Applicable Law. This Agreement is being executed and delivered within the State of Idaho and shall be construed and enforced in all respects in accordance with the laws of the State of Idaho.

6.3 Number and Gender of Persons. The terms "Buyer" and "Seller" are used herein without regard to the number or gender of the persons constituting such parties. If the Seller and/or the Buyer consist of two or more persons, including, but not limited to, individuals, partnerships, associations or other entities, such persons shall be jointly and severally liable hereunder. Whenever any other neuter or singular term is used herein, such term shall be construed to include the masculine or feminine gender or plural, and shall include any party whether male, female or partnership or other entity as may be appropriate.

6.4 Captions. The captions of this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part hereof.

6.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, administrators, successors and assigns of the parties hereto.

6.6 Time is of the Essence. Time is of the essence in connection with the duties and obligations contained herein.

6.7 Attorney's Fees. In the event that either party hereto retains an attorney to enforce any right or duty arising out of this Agreement, the prevailing party in such dispute shall be entitled to be paid reasonable attorney's fees by the non-prevailing party, whether or not litigation is actually instituted.

6.8 Entire Agreement. The Seller and Buyer acknowledge that the terms of this Agreement may vary from the terms contained in any other preliminary agreements, written or oral, made prior to the execution of this Agreement and may vary from any negotiations between the parties prior to the execution of this Agreement. The Seller and Buyer agree that the terms, covenants and conditions of this Agreement shall supersede all such prior negotiations and agreements, and that there are no other agreements not contained in this Agreement, and that this Agreement shall be and is the final expression of the agreement of the parties and shall control. No modification of this Agreement shall be valid unless in writing and executed by the parties to the Agreement.

6.9 Severance and Validity. In the event any provision of this Agreement or any part hereof shall be determined by any Court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions hereunder, or parts thereof, shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby, it being agreed that such remaining provisions shall be construed in a manner most closely approximating the intention of the parties with respect to the invalid, void or unenforceable provision or part thereof.

6.10 Confidentiality. Buyer and Seller agree to maintain the terms of this Agreement in strict confidence, including, but not limited to, the substance of materials exchanged between the parties and the substance of information obtained by either party with respect to the Agreement.

6.11 Notices. All notices and communications under this Agreement shall be in writing, sent to the parties and their respective legal counsel, and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or by overnight express carrier, or (iii) sent by facsimile or electronic mail with the original to follow by mail in the manner described above. The physical and mailing addresses and facsimile numbers for the purposes of this paragraph are as follows:

<u>Recipient</u>	<u>Physical Address</u>	<u>Mailing Address</u>	<u>Facsimile and E-Mail</u>
Seller:		Marathon Partners, LLC c/o Edmund E. Dumke P.O. Box 3118 Ketchum, ID 83340	<a href="mailto:edumke@mac.com">edumke@mac.com</a>

<u>Recipient</u>	<u>Physical Address</u>	<u>Mailing Address</u>	<u>Facsimile and E-Mail</u>
Seller's Counsel:	James P. Speck Speck & Aanestad A Professional Corporation 120 East Ave. N. Ketchum, Idaho 83340	James P. Speck Speck & Aanestad A Professional Corporation P.O. Box 987 Ketchum, Idaho 83340	208-726-0752 <a href="mailto:jim@speckandaanestad.com">jim@speckandaanestad.com</a>

Buyer:	Melanie McCray Nevins	Melanie McCray Nevins	
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\_\_\_\_\_  
\_\_\_\_\_  
P.O. Box 4272  
Hailey, Idaho 83333

Buyer's  
Counsel

\_\_\_\_\_  
\_\_\_\_\_  
Brian Barsotti

\_\_\_\_\_  
\_\_\_\_\_  
Brian Barsotti

\_\_\_\_\_  
[barsotti1@mindspring.com](mailto:barsotti1@mindspring.com)

IN WITNESS WHEREOF, the parties have executed this Agreement for Purchase and Sale of Water Rights the day and year first above written.

**BUYER:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
MELANIE MCCRAY NEVINS

**SELLER:**

MARATHON PARTNERS, LLC

Dated: September 28, 2020 By: Edmund E. Dumke  
Edmund E. Dumke  
Manager

P.O. Box 4272  
Halley, Idaho 83333

Buyer's  
Counsel

Brian Barsotti

Brian Barsotti

[barsotti1@mindspring.com](mailto:barsotti1@mindspring.com)

IN WITNESS WHEREOF, the parties have executed this Agreement for Purchase and Sale of Water Rights the day and year first above written.

BUYER:

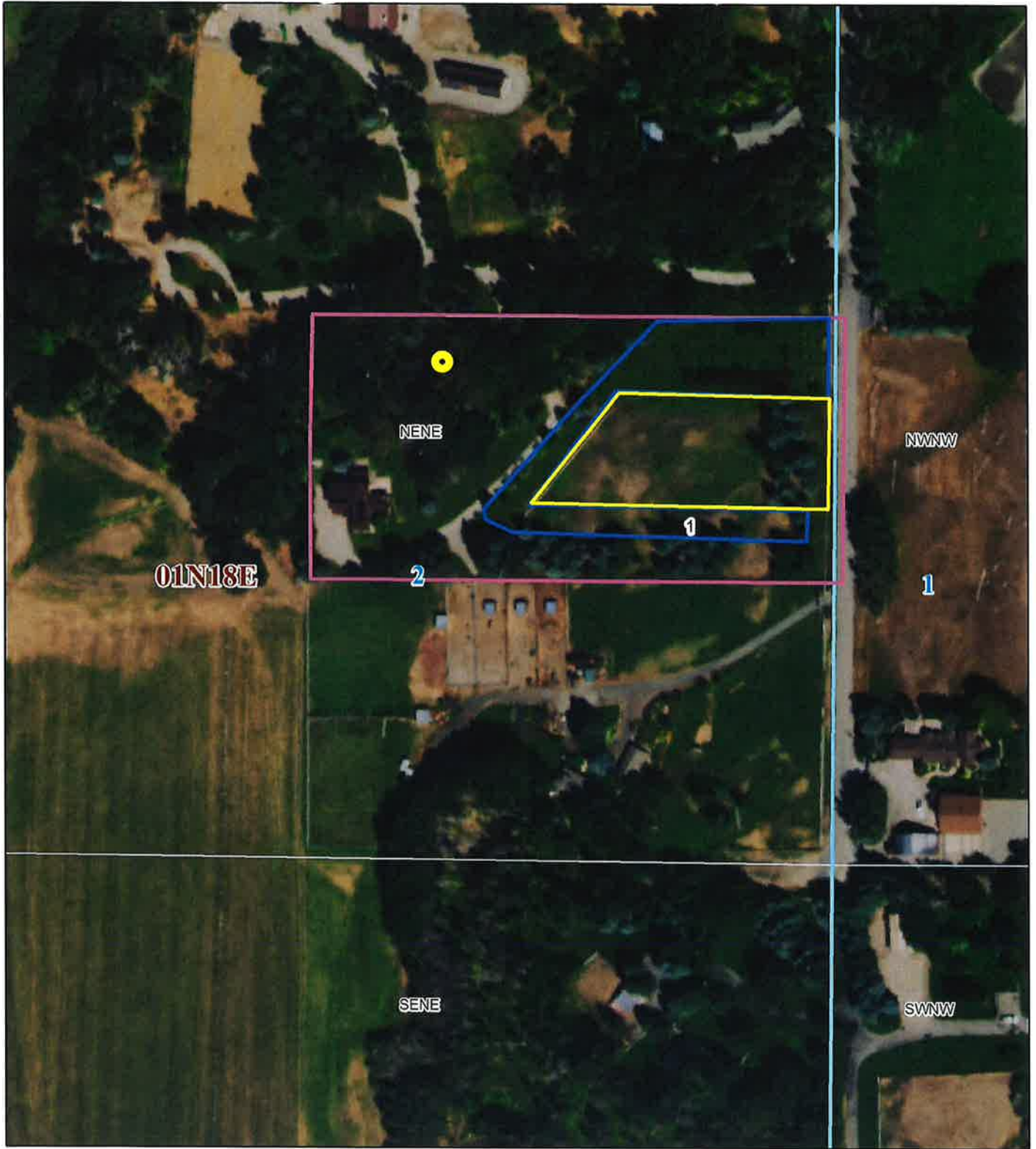
Dated: 9/30/2020

Melanie McCray Nevins  
MELANIE MCCRAY NEVINS

SELLER:

MARATHON PARTNERS, LLC

Dated: September 28, 2020 By: Edmund E. Dumke  
Edmund E. Dumke  
Manager



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0 125 250 Feet

FEB 04 2021

DEPT OF WATER RESOURCES  
SOUTHERN REGION

BROCKWAY ENGINEERING PLLC  
JJJ- 10/30/2020

**MARATHON PARTNERS LLC  
WR TRANSFER APPLICATION**

**2019 NAIP AERIAL IMAGE**

**Transfer 84696**

**Legend**

-  POD
-  Water Right
-  Proposed Irrigation
-  Nevins Parcel









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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

February 11, 2021

MARATHON PARTNERS LLC  
PO BOX 3118  
KETCHUM, ID 83340-3101

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

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **IDAHO MOUNTAIN EXPRESS** on **2/17/2021** and **2/24/2021**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **March 8, 2021**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

c: Brockway Engineering PLLC

## Maline, Denise

---

**From:** Maline, Denise  
**Sent:** Thursday, February 11, 2021 5:34 PM  
**To:** Mike Peterson; Bradley Dawson  
**Subject:** Comment Letter for Water Right Transfer 84696 (Marathon Partners)  
**Attachments:** Comment Letter to F&G for 84696.docx; Transfer 84696 Marathon Partners.pdf

Good evening,

Attached is an application for transfer currently being processed by the department. Please review the information and provide any necessary comments using the attached recommendation form within 21 days.

Feel free to contact Water Right Agent Bill Mills at our office if you have any questions regarding this application.

Thank you & have a good evening,

Denise Maline @ IDWR Twin Falls

### Denise Maline, Administrative Assistant I

Idaho Dept. of Water Resources

650 Addison Ave W Ste 500

Twin Falls ID 83301-5858

(208) 293-9908

[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)

*Per e-mail (returned) notification, Dawson  
no longer works for IDFG.*



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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

February 11, 2021

IDAHO DEPT OF FISH & GAME  
MIKE PETERSON &/OR BRADLEY DAWSON  
324 S 417 E STE 1  
JEROME ID 83338-6206

RE: Transfer No(s). 84696 (Marathon Partners LLC)  
Water Right No(s).: 37-21112

Dear Fish & Game:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your organization regarding the above referenced water right application. *You can find a complete copy of the application(s) at:* <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days of the date of this letter.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication (**on or before March 8, 2021**).

Please contact this office if you have any questions regarding the application.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

Enclosure(s)

## Maline, Denise

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**From:** Maline, Denise  
**Sent:** Thursday, February 11, 2021 5:14 PM  
**To:** Kevin Lakey (WD37); Cyndi WD37  
**Subject:** Comment Letter for Transfer 84670 (Picabo Livestock) and 84696 (Marathon Partners)  
**Attachments:** Transfer 84696 Marathon Partners.pdf; Transfer 84670 Picabo Livestock.pdf

Hi Kevin,

Attached are (2) applications for transfer within your district, currently being processed by the Department. Please review the applications and provide any necessary comments within (21) days.

Feel free to contact our office if there are any questions.

Have a good evening,

Denise @ IDWR

**Denise Maline, Administrative Assistant I**  
Idaho Dept. of Water Resources  
650 Addison Ave W Ste 500  
Twin Falls ID 83301-5858  
(208) 293-9908  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



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](http://www.idwr.idaho.gov)

Brad Little  
Governor

Gary Spackman  
Director

February 11, 2021

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

RE: Transfer No. 84670 (Picabo Livestock Co. Inc.)  
Transfer No. 84696 (Marathon Partners LLC)

Dear Kevin:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

Enclosure(s)

## Maline, Denise

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**From:** Maline, Denise  
**Sent:** Thursday, February 11, 2021 2:49 PM  
**To:** Idaho Mountain Express  
**Subject:** LEGAL NOTICE  
**Attachments:** Idaho Mtn Express cover letter.docx; Idaho Mtn Express ad.docx

Attached please find **(1)** legal notice being submitted for publication on February 17<sup>th</sup> & 24<sup>th</sup>, 2021. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls

**Denise Maline, Administrative Assistant I**  
Idaho Dept. of Water Resources  
650 Addison Ave W Ste 500  
Twin Falls ID 83301-5858  
(208) 293-9908  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



State of Idaho

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Brad Little  
Governor

Gary Spackman  
Director

February 11, 2021

**LEGAL NOTICE DEPARTMENT**  
IDAHO MOUNTAIN EXPRESS  
PO BOX 1013  
KETCHUM, ID 83340

RE: Transfer No. 84670  
Water Right No(s). 37-11628, 37-21400, 37-7455

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

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before March 8, 2021. Your cooperation is appreciated.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

Enclosure(s)

**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.

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.idwr.idaho.gov/apps/waterrights/QueryNewTransfers](http://research.idwr.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  
Published on February 17<sup>th</sup> & 24<sup>th</sup>, 2021

## MEMORANDUM

**Date:** February 11, 2021  
**To:** Transfer 84696 File  
**From:** Bill Mills  
**Re:** Transfer Proposal

---

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.

Both current and proposed PODs and POUs are within Water District 37 and Watermaster comments will be solicited.

## MEMORANDUM

**Date:** February 11, 2021

**To:** Transfer 84696

**From:** Bill Mills

**Re:** Fee Evaluation

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Filing fees charged for transfer application #84696 were based on the on the current transfer fee schedule and included \$200.00 for the 0.03 cfs being transferred in the application (Receipt No.S038251).

## Skinner, Corey

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**From:** Zach Latham <zach.latham@brockwayeng.com>  
**Sent:** Thursday, February 4, 2021 4:02 PM  
**To:** Skinner, Corey  
**Subject:** Marathon Partners WR Transfer  
**Attachments:** Dried Up Acre Map.pdf; TransferPart2A 37-21112.pdf; WR Transfer Application Map.pdf

Corey-

This email requests to apply funds associated with IDWR Receipt #S03825, to pay for the Marathon Partners LLC water right transfer that was recently mailed to your office by the applicant. Also attached are the two maps that were to accompany the application and the Part 2A for the application.

Please let me know if the Department needs any additional information regarding this water right transfer application. Thanks again for your help, we really appreciate it.

Zach Latham

Hydrologist  
Brockway Engineering, P.L.L.C.  
2016 Washington Street North, Suite 4  
Twin Falls, ID 83301  
t. 208-736-8543  
c.208-721-2114  
f. 208-736-8506

[zach.latham@brockwayeng.com](mailto:zach.latham@brockwayeng.com)

*All information, calculations, maps, drawings, or other documents transmitted via e-mail are preliminary unless explicitly stated in the e-mail text or in the documents themselves.*



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](http://www.idwr.idaho.gov) • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

December 4, 2020

Zach Latham  
Brockway Engineering  
2016 N Washington St  
Suite 4  
Twin Falls, ID 83301

Dear Mr. Latham:

Please find enclosed a water right transfer application, in the name of Marathon Partners LLC, that you recently filed with our office. The application proposes transferring a 1.0 acre portion of water right 37-21112 from the Hiawatha Canal to a new location further down the Big Wood River Valley. The application is being returned because it is considered incomplete and is not acceptable for processing. If only a portion of the water right is proposed to be changed, the transfer application must include a map that shows the location of the portion of the existing water right that is proposed to be removed (changed).

As you are aware, over the years when IDWR has approved transfer applications that move water rights from the Hiawatha Canal, it has been typical to leave a portion of the right to continue to be diverted into the Hiawatha Canal. This has been an effort to address potential injury concerns to users on the Hiawatha Canal with the amounts being left in the canal (as a percentage basis) varying over the years. The purchase and sale agreement that was included with the application indicates that a "one (1) acre" portion of the right is to be transferred. The cover letter included with the application indicates "*Both the Applicant and Ms. Nevins understand that a portion of the proposed discharge to be transferred may be required to be left in the Hiawatha Canal to make up for carriage losses in the canal.*" However, the application does not identify any specific amount of water to be left in the Hiawatha. Note that if the application does not describe the amount left in the canal or otherwise address the potential injury concerns to users on the Hiawatha Canal, then IDWR may have to reject the application.

Because IDWR will not record transferred amounts in increments of less than 0.01 cfs, transferring a relatively small portion of a water right from the Hiawatha Canal may potentially result in a relatively large amount of water being left in the canal compared to the portion being transferred. For example, assuming a 0.02 cfs portion being transferred from the canal, then the smallest amount that can be recorded as being left in the canal would be 0.01 cfs, which would represent 33% of the total (0.01 cfs + 0.02 cfs), or 50% of the amount being transferred. For comparison, currently, based on input from the Hiawatha Canal Company, the Idaho Water Resource Board allows for up to 20% of the diversion rate associated with a leased water right in the Water Supply Bank to be delivered into the canal, to avoid injury to prior appropriators.

Page 2

Zach Latham/Marathon Partners Transfer Return Letter  
December 4, 2020

The application lists the applicant's address as Jim Speck's address. This will result in a change in the applicant's address from PO Box 3118 in Ketchum, to Mr. Speck's address. Clarification of this potential change is requested.

The Department will allow 30 days to resubmit an application addressing the items discussed in this letter. If a replacement application is not received within 30 days, a refund of the \$200.00 filing fee will be issued to Brockway Engineering (per IDWR receipt # S038251).

If you have any questions, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with a large initial "C" and "S".

Corey Skinner, PE  
Southern Region Manager

Enclosure

cc: Marathon Partners – w/o enclosure  
James Speck – w/o enclosure



**BROCKWAY**  
ENGINEERING  
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED  
NOV 16 2020  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

November 12<sup>th</sup>, 2020

Mr. Corey Skinner  
Idaho Department of Water Resources  
650 Addison Ave W, Ste 500.  
Twin Falls, ID 83301-3380

RE: Marathon Partners LLC; Water Right Transfer Application.

Dear Corey,

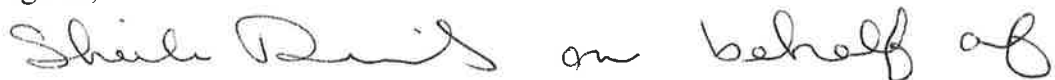
Enclosed is a water right transfer application filed in the name of Marathon Partners LLC (Applicant), involving Big Wood River irrigation water right 37-21112 currently appurtenant to their property in east Hailey, ID. The Applicant seeks to transfer 1.0 acre of 37-21112 to Blaine County Parcel RP01N18002040H owned by Ms. Melanie McCray Nevins, south of Bellevue, ID. Ms. Nevins and the Applicant have a purchase and sale agreement (attached) that authorizes the applicant to file the enclosed transfer application. After a successful transfer of the water, a change of ownership form will be filed to put the transferred water right in Ms. Nevin's name. Both the Applicant and Ms. Nevins understand that a portion of the proposed discharge to be transferred may be required to be left in the Hiawatha Canal to make up for carriage losses in the canal.

Please copy our office and Brockway Engineering on all correspondence regarding this water right transfer application. Also included is a check for \$200.00 to cover the cost of the water right transfer application. Don't hesitate to give me a call should you have any further questions or comments.

CHARLES E.  
BROCKWAY,  
PH.D., P.E.

CHARLES G.  
BROCKWAY,  
PH.D., P.E.

Regards,

 on behalf of

Zach Latham, M.S., Hydrologist.

Enclosures: (1) Water Right Transfer Application and Associated Map.  
(1) Purchase and Sale Agreement.  
(2) Brockway Engineering Check # 16117.

Cc: Ms. Sarah Higer  
Mr. Jim Speck

2016 NORTH  
WASHINGTON  
STREET • SUITE 4

TWIN FALLS,  
IDAHO 83301

208•736•8543

FAX: 736•8506