

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83900**

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> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 51-13127           | WR/LICENSE          | 6/29/2018            | 2.260 cfs             | N/A                     | N/A               | 113.0              | WASTE WATER   |
| 51-7318            | WR/LICENSE          | 1/3/1989             | 0.450 cfs             | 143.0 af                | N/A               | 35.7               | UNNAMED DRAIN |
| 51-7319            | WR/LICENSE          | 1/3/1989             | 0.040 cfs             | 20.6 af                 | N/A               | 11.3               | UNNAMED DRAIN |

**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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 51-13127              | NO           | NO         | YES        | NO             | NO                   | NO                   |
| 51-7318               | NO           | NO         | YES        | NO             | NO                   | NO                   |
| 51-7319               | NO           | NO         | YES        | NO             | NO                   | NO                   |

**Summary Of Water Rights After the Approved Change**

| <u>Existing Right</u>  | <u>New No. (Changed Portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 51-13127               | 51-13127                         | 2.260 cfs            | N/A                    | 113.0             | 395.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 51-7318                | 51-7318                          | 0.450 cfs            | 143.0 af               | 35.7              | 395.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 51-7319                | 51-7319                          | 0.040 cfs            | 20.6 af                | 11.3              | 395.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>2.750 cfs</b>     | <b>N/A</b>             | <b>113.0</b>      | <b>395.0</b>       |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

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 27<sup>th</sup> day of January, 2021.

for, *Patricia M. Kelly*  
Chief, Water Allocation Bureau

Transfer No. 83900

**WATER RIGHT NO. 51-7319**  
**As Modified by Transfer No. 83900**

In accordance with the approval of Transfer No. 83900, Water Right No. 51-7319 is now described as follows:

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

**Priority Date:** 1/3/1989

**Source:** UNNAMED DRAIN

**Tributary:** BRUNEAU RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| IRRIGATION            | 03/01       | to 11/15  | 0.040 cfs             | 20.6 af                 |
|                       |             |           | 0.040 cfs             | 20.6 af                 |

**LOCATION OF POINT(S) OF DIVERSION**

UNNAMED DRAIN      NWNE      Sec 31 Twp 06S 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 |      |     |      |      |      |      |      |      | 30.0 | 4.0  |      | 10.0 | 45.0   |
| 06S | 06E | 30  |    |    | 3.0 |     |      |     | 19.0 | 33.0 | 41.0 | 41.0 | 32.0 | 41.0 | 10.0 | 29.0 | 41.0 | 35.0 | 325.0  |
|     |     |     |    |    |     |     |      |     | L 2  |      |      | L 3  | L 4  |      |      |      |      |      |        |
| 06S | 06E | 31  |    |    |     |     | 23.0 | 2.0 |      |      |      |      |      |      |      |      |      |      | 25.0   |
|     |     |     |    |    |     |     |      | L 1 |      |      |      |      |      |      |      |      |      |      |        |

Right Acre Limit: 11.3  
 POU Total Acres: 395.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of a specific 11.3 acres within the 395 acre place of use authorized by this right in a single irrigation season. The specific 11.3 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 11.3 acres to be irrigated within the 395 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 51-7318, 51-7319, and 51-13127 when combined shall not exceed a total irrigation of 113 acres.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 83900

**WATER RIGHT NO. 51-7319**

**As Modified by Transfer No. 83900**

**CONDITIONS OF APPROVAL**

4. This right combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 45.2 af at the field headgate for the 11.3 acre place of use. Use of this right is combined with water from Bruneau Buckaroo Coop Ditch Company.
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. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
7. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

**WATER RIGHT NO. 51-7318****As Modified by Transfer No. 83900**

In accordance with the approval of Transfer No. 83900, Water Right No. 51-7318 is now described as follows:

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

**Priority Date:** 1/3/1989

**Source:** UNNAMED DRAIN

**Tributary:** BRUNEAU RIVER

**BENEFICIAL USE**

IRRIGATION

**From**

03/01

to

**To**

11/15

**Diversion Rate**

0.450 cfs

0.450 cfs

**Diversion Volume**

143.0 af

143.0 af

**LOCATION OF POINT(S) OF DIVERSION**

UNNAMED DRAIN

SESE

Sec 30 Twp 06S 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 |      |     |      |      |      |      |      |      | 30.0 | 4.0  |      | 10.0 | 45.0   |
| 06S | 06E | 30  |    |    | 3.0 |     |      |     | 19.0 | 33.0 | 41.0 | 41.0 | 32.0 | 41.0 | 10.0 | 29.0 | 41.0 | 35.0 | 325.0  |
|     |     |     |    |    |     |     |      |     | L 2  |      |      |      | L 3  | L 4  |      |      |      |      |        |
| 06S | 06E | 31  |    |    |     |     | 23.0 | 2.0 |      |      |      |      |      |      |      |      |      |      | 25.0   |
|     |     |     |    |    |     |     |      | L 1 |      |      |      |      |      |      |      |      |      |      |        |

Right Acre Limit: 35.7

POU Total Acres: 395.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of a specific 35.7 acres within the 395 acre place of use authorized by this right in a single irrigation season. The specific 35.7 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 35.7 acres to be irrigated within the 395 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 51-7318, 51-7319, and 51-13127 when combined shall not exceed a total irrigation of 113 acres.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 83900

**WATER RIGHT NO. 51-7318**  
**As Modified by Transfer No. 83900**

**CONDITIONS OF APPROVAL**

4. This right combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 143 af at the field headgate for the 35.7 acre place of use. Use of this right is combined with water from Bruneau Buckaroo Coop Ditch Company.
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. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
7. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

**WATER RIGHT NO. 51-13127**  
**As Modified by Transfer No. 83900**

In accordance with the approval of Transfer No. 83900, Water Right No. 51-13127 is now described as follows:

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

**Priority Date:** 6/29/2018

**Source:** WASTE WATER

**Tributary:** BRUNEAU RIVER

**BENEFICIAL USE**  
 IRRIGATION

**From** 03/01 **to** 11/15

**Diversion Rate**  
 2.260 cfs  
 2.260 cfs

**LOCATION OF POINT(S) OF DIVERSION**

WASTE WATER  
 WASTE WATER

NENW  
 L1 (NWNW)

Sec 31 Twp 06S Rge 06E OWYHEE County  
 Sec 31 Twp 06S Rge 06E OWYHEE County

**PLACE OF USE: IRRIGATION**

|     |     |     | NE |    |     |     | NW   |     |      |      | SW   |      |      |      | SE   |      |      |      | Totals |
|-----|-----|-----|----|----|-----|-----|------|-----|------|------|------|------|------|------|------|------|------|------|--------|
| Twp | Rng | Sec | NE | NW | SW  | SE  | NE   | NW  | SW   | SE   | NE   | NW   | SW   | SE   | NE   | NW   | SW   | SE   |        |
| 06S | 05E | 25  |    |    |     | 1.0 |      |     |      |      |      |      |      |      | 30.0 | 4.0  |      | 10.0 | 45.0   |
| 06S | 06E | 30  |    |    | 3.0 |     |      |     | 19.0 | 33.0 | 41.0 | 41.0 | 32.0 | 41.0 | 10.0 | 29.0 | 41.0 | 35.0 | 325.0  |
|     |     |     |    |    |     |     |      |     | L 2  |      |      |      | L 3  | L 4  |      |      |      |      |        |
| 06S | 06E | 31  |    |    |     |     | 23.0 | 2.0 |      |      |      |      |      |      |      |      |      |      | 25.0   |
|     |     |     |    |    |     |     |      | L 1 |      |      |      |      |      |      |      |      |      |      |        |

Right Acre Limit: 113.0

POU Total Acres: 395.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of a specific 113 acres within the 395 acre place of use authorized by this right in a single irrigation season. The specific 113 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 113 acres to be irrigated within the 395 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 51-7318, 51-7319, and 51-13127 when combined shall not exceed a total irrigation of 113 acres.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 83900

**WATER RIGHT NO. 51-13127**

**As Modified by Transfer No. 83900**

**CONDITIONS OF APPROVAL**

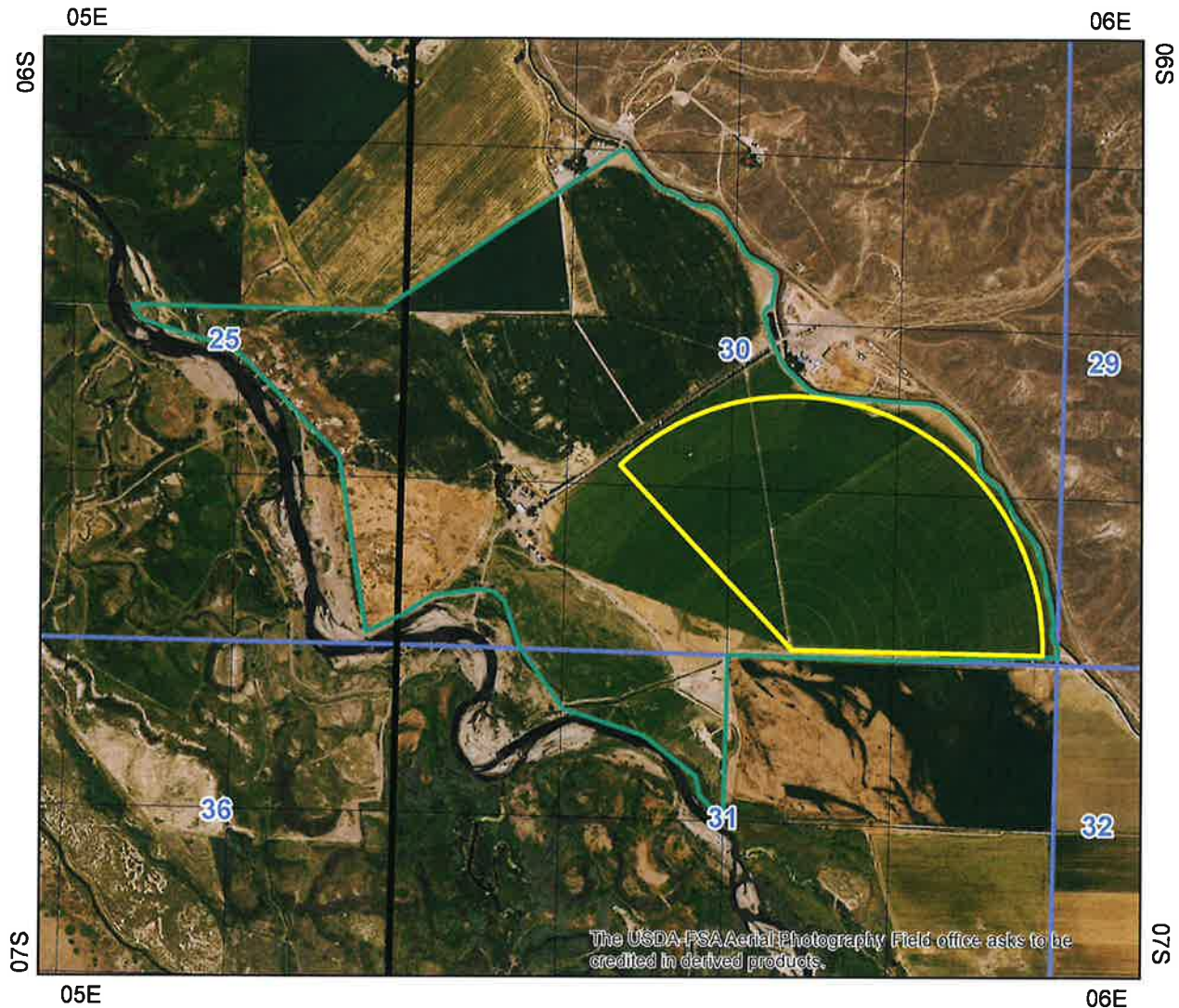
4. This right combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 452 af at the field headgate for the 113 acre place of use. Use of this right is combined with water from Bruneau Buckaroo Coop Ditch Company.
5. After specific 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. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
7. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
8. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

State of Idaho  
Department of Water Resources

# Attachment to Transfer Approval 83900

51-7319, 51-7318, 51-13127

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.



- 113 acre Place of Use
- 395 acre Permissible Place of Use
- Townships
- PLS Sections
- Quarter Quarters

0 0.175 0.35 0.7 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](http://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: 83900  
Water Right No(s): 51-7318, 51-7319, 51-13127

### 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 LAUDERMAN  
for Nick Miller  
Western Regional Manager

Enclosure

BRUNEAU BUCKAROO COOP DITCH CO  
C/O CHARLES HONSINGER  
HONSINGER LAW PLLC  
PO BOX 517  
BOISE ID 8370

## 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.: 83900  
Water Right No(s): 51-7318, 51-7319, 51-13127

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

BRUNEAU BUCKAROO COOP DITCH CO  
C/O CHARLES HONSINGER  
HONSINGER LAW PLLC  
PO BOX 517  
BOISE ID 8370



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. 83900  
FROM: Anna Kaiser  
DATE: January 25, 2021  
RE: Evaluation of Application

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Ace Black Ranch submitted transfer 83900 with transfer 83899 and application for permit 51-13137. All applications propose the same 703-acre permissible place of use (ppu) and will provide 557 acres of irrigation to Ace Black's property by way of flood irrigation and a five-pivot sprinkler system. Approximately 275 of these acres on east side of river will also receive Bruneau Buckaroo Co-operative Ditch Company (BBDC) water.

Transfer no. 83900 involves water rights 51-13127, 51-7318, and 51-7319 which authorize irrigation using wastewater. The transfer proposes 113 total acres of irrigation within the 703-acre ppu.

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 83900 was submitted in the name of Ace Black Ranches and signed by Terry Black. The Idaho Secretary of State website lists Terry Black as a registered agent of Ace Black Ranches, giving him signing authority.

#### **Water Right Validity:**

All rights involved in transfer 83900 are presumed to be valid because they were all licensed in 2018 or 2019 which is within the last five years.

#### **Injury to Other Water Rights:**

Transfer 83899 is not expected to injure other water rights.

#### **Enlargement of Use & Water Right Overlap:**

##### Overlap:

Water rights 51-7318 and 51-7319 do not overlap one another but the POU of each falls completely within the POU boundary of water right 51-13127. No other wastewater rights exist or should be considered. Furthermore, the POU is within the BBDC service area. Although not all of the original POU was irrigated with BBDC water, some of the POU was irrigated with water comingled with BBDC. And so the rights are considered "stacked" with BBDC. The transfer should limit the new POU to the east side of the river both to prevent enlargement and as it also serves a conditional withdrawal.

Combined Use Limits:

Upon approval of transfer 83900, a condition will be added limiting all three involved rights to 113 acres of irrigation for a single season.

Enlargement:

So long as the applicant adheres to the combined use conditions on each water right, enlargement will not occur.

**Local Public Interest:**

Upon public advertisement, the Department notified BBDC of Ace Black's transfer proposal. BBDC protested transfer 83900 and has since conditionally withdrawn their protest provided a condition limiting Ace Blacks use of the rights involved in this transfer to the eastern side of the Bruneau River. So long as the applicant adheres to this condition, the local public interest will be protected.

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. 83899. Transfer 83899 proposes applying the 703-acre ppu boundary to water rights 51-10252, 51-27B, 51-28B, 51-29B, and 51-30. The five rights involved in Transfer 83899 provide a 264-acre area of irrigation. 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, the applicant sought 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. BBDC conditionally withdrew protest of 83900 if the wastewater rights were limited to the east side of the river. As discussed under "enlargement", this condition is also necessary to protect against enlargement of the rights.

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.

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. 521 of those acres will be accommodated by five irrigation pivots- three on the eastern side of the river and two on the western side of the river. The remaining acres will be irrigated through flood irrigation.

A map showing the 395-acre ppu is enclosed with the transfer documents

| Basin/Sequ Owner | Source        | Use           | TRANSFER NO. 83899 |      |      |      |      |      |      |      |      |      |      |    | TotalAcres |    |    |    |       |
|------------------|---------------|---------------|--------------------|------|------|------|------|------|------|------|------|------|------|----|------------|----|----|----|-------|
|                  |               |               | NENE               |      | NENW |      | SENE |      | SESW |      | NWSW |      | NENE |    |            |    |    |    |       |
|                  |               |               | NWNE               | SWNE | SENE | NENW | SENE | SESW | NWSW | NENE | NWSE | SWSE | SESE |    |            |    |    |    |       |
| 06505E25         |               |               |                    |      |      |      |      |      |      |      |      |      |      |    |            |    |    |    |       |
| 51-10252         | BLACK, ALBERT | BRUNEAU RIVER | IRRIGATION         |      |      |      |      |      |      | 41   |      |      |      | 40 | 3.9        | 33 | 41 | 15 | 173.5 |
| 51-278           | BLACK, ALBERT | BRUNEAU RIVER | IRRIGATION         |      |      |      |      |      |      | 41   |      |      |      | 40 | 3.9        | 33 | 41 | 15 | 173.5 |
| 51-288           | BLACK, ALBERT | BRUNEAU RIVER | IRRIGATION         |      |      |      |      |      |      | 41   |      |      |      | 40 | 3.9        | 33 | 41 | 15 | 173.5 |
| 51-298           | BLACK, ALBERT | BRUNEAU RIVER | IRRIGATION         |      |      |      |      |      |      | 41   |      |      |      | 40 | 3.9        | 33 | 41 | 15 | 173.5 |
| 51-30            | BLACK, ALBERT | BRUNEAU RIVER | IRRIGATION         |      |      |      |      |      |      | 41   |      |      |      | 40 | 3.9        | 33 | 41 | 15 | 173.5 |

[illegible]

| INVENTORY NO. 00200 |    |
|---------------------|----|
| 06905E25            |    |
| 51-13127            | 28 |
| 51-7318             | 6  |
| 28                  | 11 |
| 39                  | 6  |
| 39                  | 11 |

[illegible][illegible]



State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W Airport Way • Boise ID 83705-5082

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BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

January 14, 2021

COPY

Terry,

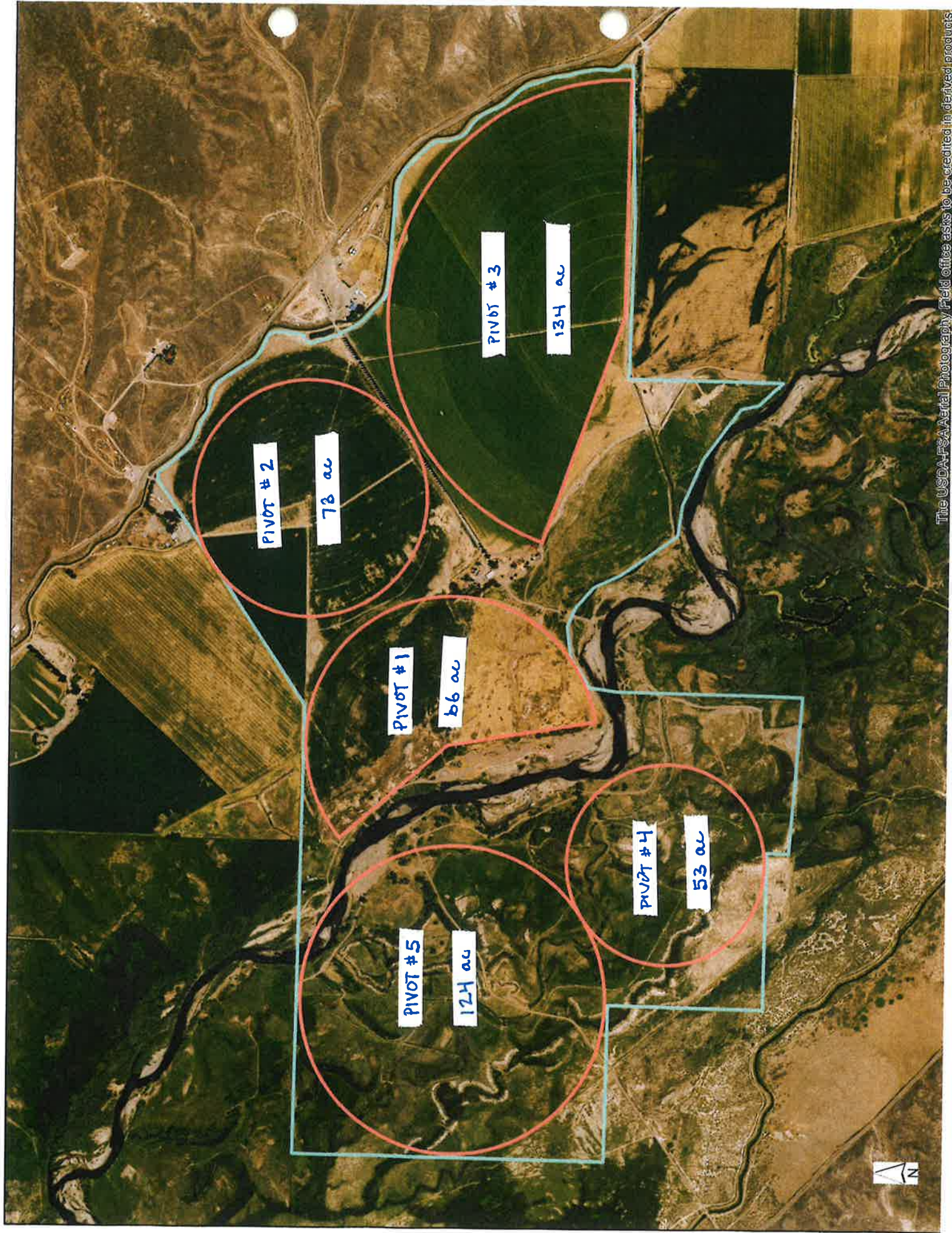
Here are the two maps I am looking at. Transfer 83899 for Bruneau River water authorizes up to 264 acres. When I drew the shapes on the map that was submitted, Pivot # 4 does not fit within your permissible place of use (PPU) and property boundary. I shrunk it down so that it did and calculated all of 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". The signature is written in a cursive, flowing style.

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



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.

