

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 84423

This is to certify that: DEBRA A INFANGER AND
JOHN N INFANGER
1241 MAIN ST
GOODING, ID 83330-1813

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
37-21649	WR/DECREED	4/1/1883	0.200 cfs	N/A	12.0	14.2	LITTLE WOOD RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-21649	NO	NO	NO	NO	NO	YES

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-21649	37-21649	0.200 cfs	N/A	N/A	10.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.200 cfs	N/A	N/A	10.6		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 4th day of December, 2020.


Southern Region Manager

Transfer No. 84423

WATER RIGHT NO. 37-21649**As Modified by Transfer No. 84423**

In accordance with the approval of Transfer No. 84423, Water Right No. 37-21649 is now described as follows:

Right Holder: DEBRA A INFANGER AND
JOHN N INFANGER
1241 MAIN ST
GOODING, ID 83330-1813

Priority Date: 4/1/1883

Source: LITTLE WOOD RIVER

Tributary: MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.180 cfs	
GROUND WATER RECHARGE	03/15	to 11/15	0.020 cfs	4.6 af
			0.200 cfs	

LOCATION OF POINT(S) OF DIVERSION

LITTLE WOOD RIVER SESE Sec 36 Twp 05S Rge 14E GOODING County

PLACE OF USE: GROUND WATER RECHARGE

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05S	14E	36																X	

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	
05S	14E	36																	10.6

POU Total Acres: 10.6

CONDITIONS OF APPROVAL

1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District 37.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
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.

Transfer No. 84423

WATER RIGHT NO. 37-21649

As Modified by Transfer No. 84423

CONDITIONS OF APPROVAL

4. Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-W-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.
5. This right does not grant any right-of-way or easement across the land of another.
6. The ground water recharge use described by this right mitigates for the consumptive use associated with the domestic irrigation use under right 37-23224. If the ground water recharge portion of this right is not deliverable then the amount of water authorized for domestic irrigation use under right 37-23224 that is being mitigated shall be reduced by the same proportion as the reduction to the ground water recharge portion of this right.
7. Pursuant to Idaho Code § 42-234(4), to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has authority to approve, disapprove, or require alterations in the methods employed to achieve ground water recharge.
8. Pursuant to Idaho Code § 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
9. The right holder shall record the daily quantity of water diverted for ground water recharge and shall report the diversion data for the prior calendar year to the Department by February 1 each year. Reporting shall occur in the manner specified by the Department, consistent with Idaho Code § 42-701. To facilitate this reporting requirement, the right holder shall install and maintain a totalizing measuring device approved by the Department at each point of diversion and at each point where water is delivered from the conveyance system into a designated recharge site.
10. Return flow discharged to a subsurface system must be authorized by a separate injection well permit.
11. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
12. The diversion and use of water described in Transfer 84423 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. 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. 37-21649

As Modified by Transfer No. 84423

CONDITIONS OF APPROVAL

15. 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 # 84423
37-21649

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



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

0 0.035 0.07 0.14 Miles



State of Idaho
Department of Water Resources

Attachment to Transfer # 84423

37-21649

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



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

0 0.0375 0.075 0.15 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

December 7, 2020

JOHN N INFANGER
DEBRA A INFANGER
1241 MAIN ST
GOODING ID 83330-1813

Re: Transfer No: 84423
Water Right No(s): 37-21649

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

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

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

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

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

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

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
CHARLES G BROCKWAY
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

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

JOHN K SIMPSON
BARKER RSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139

ROBERT E WILLIAMS
WILLIAMS MESERVY & LARSEN LLP
PO BOX 168
JEROME ID 83338-0168

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2020 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.: 84423

Water Right No(s): 37-21649

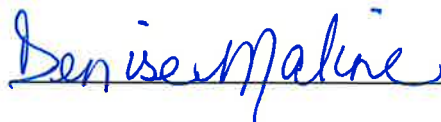
JOHN N INFANGER
DEBRA A INFANGER
1241 MAIN ST
GOODING ID 83330-1813

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WATER DISTRICT 37
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WILLIAMS MESERVY & LARSEN LLP
PO BOX 168
JEROME ID 83338-0168



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

Date: November 6, 2020
To: Transfer 84423
From: Bill Mills
Re: Evaluation of Sufficiency Memorandum

Application proposes changing the nature of use of a 1.4 acre portion of a 12.0 acre irrigation Big Wood River Right to ground water recharge. The intent is to provide mitigation for the irrigation portion of a proposed 0.15 cfs domestic application for permit (37-23224) that will provide ground water from an existing well for domestic purposes associated with 14 homes. Place of use and point of diversion are located approximately 1.2 miles west and 0.2 miles north of the intersection of 7th Ave and Hwy 46 in Gooding.

The change in nature of use analysis from irrigation to ground water recharge was based on an acre to volume conversion utilizing the precipitation deficit values for turf grass over the course of an irrigation season (March to October) averaged from the Bliss and Shoshone station values calculated on the University of Idaho's ETIdaho website. Based on converting 1.4 acres to ground water recharge, this methodology yielded a result of 4.62 af to be utilized for ground water recharge. I calculated the precipitation deficit utilizing the mean for the growing season for each station and then averaged the two results and arrived at the same result. The proposed mitigation plan indicates a 3 foot wide trench by 320 feet in length with a design infiltration rate of 2.0 acre feet per day will be constructed for the ground water recharge.

Water right is administered by Water District 37. Watermaster comments were solicited and no watermaster comments were received.

- **Authority to File:** Applicants are listed as the current owners of the water right and properties associated with this transfer application.
- **Water Right Validity:** Water right 37-21649 was decreed in the SRBA on 2/23/2016. Recent aerial imagery indicates ground appears irrigated at the current POU for the portion of the irrigation right to be used for conversion to ground water recharge in this transfer.
- **Injury to Other Water Rights:**
None anticipated.

- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

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

**** Proof of Publication ****

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

JENNY GREEN, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

RECEIVED

OCT 26 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

ORDER NUMBER 107120

Jenny Green
(Legals Clerk)

STATE OF IDAHO)
SS
COUNTY OF TWIN FALLS)

On this 22 day of October in the year of 2020 before me, a Notary Public, personally appeared before me Jenny Green known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Amy Wiesmore
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 9-4-2026



Section: Legals

Category: 50 Legal

PUBLISHED ON: 10/15/2020, 10/22/2020

TOTAL AD COST: 87.57

FILED ON: 10/22/2020

✓ Am 10/30/2020

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84423**

JOHN N INFANGER and DEBRA A INFANGER, 1241 MAIN ST, GOODING, ID 83330-1813 has filed Application No. 84423 for changes to the following water rights within GOODING County(s): Right No(s). 37-21649; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the nature of use of a 1.4 acre portion (0.02 cfs) of a 12.0 acre irrigation Big Wood River Right to ground water recharge. The intent is to provide mitigation for the irrigation portion of application for permit 37-23224. Place of use and point of diversion are located approximately 1.2 miles west and 0.2 miles north of the intersection of 7th Ave and Hwy 46 in Gooding. For additional information concerning the property location, contact Southern Region office at (208)736-3033. 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 November 2, 2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Publish: October 15th and 22nd, 2020

✓ DM 10/30/2020

Maline, Denise

From: Bassista, Tom <thomas.bassista@idfg.idaho.gov>
Sent: Friday, October 09, 2020 6:19 AM
To: Maline, Denise
Cc: Peterson, Mike
Subject: RE: Comment Letter for Transfer 84423 (Infanger)

Thank you Denise.

The Idaho Department of Fish and Game has not comments concerning this proposed water right transfer.

Sincerely,

Tom Bassista
Technical Assistance Program Coordinator
Idaho Department of Fish and Game
Headquarters Office
PO Box 25
600 South Walnut
Boise, ID 83707

208-287-2773 office
208-610-4032 cell



<https://idfg.idaho.gov>

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Thursday, October 8, 2020 10:13 AM
To: Peterson, Mike <mike.peterson@idfg.idaho.gov>; Bassista, Tom <thomas.bassista@idfg.idaho.gov>
Subject: Comment Letter for Transfer 84423 (Infanger)

Good morning,

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,

Denise Maline @ IDWR Twin Falls

RECEIVED

SEP 10 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

ROBERT E. WILLIAMS
WILLIAMS, MESERVY & LARSEN, LLP
Attorneys at Law
153 East Main Street
P. O. Box 168
Jerome, Idaho 83338
Telephone: (208) 324-2303
Facsimile: (208) 324-3135
Email: rewilliams@wmlattys.com
IDAHO STATE BAR NO. 1693

Attorneys for Applicant

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 37-23224 In the name of John N. Infanger and Debra A. Infanger	STIPULATION FOR WITHDRAWAL OF IDAHO POWER COMPANY'S PROTEST
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COME NOW, ROBERT E. WILLIAMS, of Williams, Meservy & Larsen, LLP, as attorney for John N. Infanger and Debra A. Infanger ("Applicant") and John K. Simpson, of BARKER, ROSHOLT AND SIMPSON, LLP, and Scott Pugrud, as attorneys for Idaho Power Company ("Protestant"), and stipulate that the Protest of Idaho Power Company filed in this matter on May 4th, 2020 be withdrawn, and hereby is withdrawn, subject to the following conditions:

1. Applicant will file and receive approval of an Application for Transfer of Water Right under Idaho Code §42-222 with the Idaho Department of Water Resources seeking a change of the nature of use of .02 cfs of Water Right No. 37-21649 from irrigation to mitigation, with a total volume of 4.6 acre feet per annum to used for groundwater recharge purposes. A copy of the Application for Transfer of Water Right is attached as **EXHIBIT A**;
2. The Application for Transfer of Water Right shall propose using the new mitigation right for groundwater recharge via an infiltration trench to be constructed on real

STIPULATION FOR WITHDRAWAL OF IDAHO POWER COMPANY'S PROTEST - 1

S:\REW\DATA\I-L\INFANGER, JOHN & DEBRA\IDWR - MOBILE HOME PARK EXPANSION 2020\PLEADINGS\IDWR STIPULATION FOR WITHDRAWAL OF PROTEST 2020.09.01.DOCX

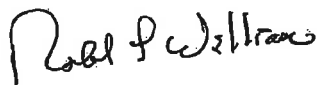
property owned by the Applicant at the location shown on the aerial map attached to the Application to Transfer of Water right. The infiltration trench and measuring device for the mitigation right shall conform to the map and specifications contained in EXHIBIT A. Applicant shall recharge a total of 4.6 acre feet per annum through the infiltration trench;

3. Applicant will install a measuring device approved by the Idaho Department of Water Resources;
4. Applicant will permanently retire 1.4 acres of the real property to which water right 37-21649 is appurtenant from irrigation;
5. Applicant will fully abide all conditions contained in the approval of the Application for Transfer of Water Right; and
6. The withdrawal of the Idaho Power Protest will be fully effective as of the date of the entry of a final order approving the Application for Transfer of Water Right and the expiration of the time period for any interested party to seek any further administrative or judicial relief.

DATED this 1st day of September, 2020.

WILLIAMS, MESERVY & LARSEN, LLP

BARKER ROSHOLT & SIMPSON LLP



ROBERT E. WILLIAMS
Attorneys for Applicant

Dated: September 1st, 2020



JOHN K. SIMPSON

Dated: 9/8/2020



SCOTT N. PUGRUD

Dated: _____

Attorneys for Idaho Power Company

CERTIFICATE OF SERVICE

I hereby certify that on September 8th, 2020, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the manner indicated below:

IDWR Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301-5858

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile to:
- ☐ Email to:

John N. Infanger and Debra A. Infanger
1241 Main Street
Gooding, Idaho 83330-1813

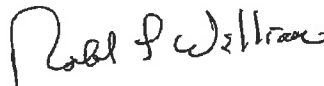
- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile to:
- ☒ Email to: debyinfanger@yahoo.com

John K. Simpson
BARKER ROSHOLT & SIMPSON LLP
1010 W Jefferson St., Ste. 102
P.O. Box 2139
Boise, ID 83702

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile to:
- ☒ Email to: jks@idahowaters.com

Scott N. Pugrud
Idaho Power Company
1221 W. Idaho Street
P.O. Box 70
Boise, ID 83707

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Facsimile to:
- ☒ Email to: spugrud2@idahopower.com



ROBERT E. WILLIAMS

EXHIBIT A
Application for Transfer of Water Right

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

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

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.

Name of Applicant(s) John N. Infanger and Debra A. Infanger

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.
- ☐ ☒ #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 WSPB)
- ☐ ☐ #10 Other. Please describe: _____

Page 1 of Transfer No. _____

STIPULATION FOR WITHDRAWAL OF IDAHO POWER COMPANY'S PROTEST - 4

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) John N. Infanger and Debra A. Infanger Phone (208) 539-7271
Mailing address 1241 Main St., Gooding, ID 83330 Email _____

- ☐ 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 Charles G. Brockway, P.E. Phone (208) 736-8543
Mailing address 2016 Washington St. N., Ste 4, Twin Falls, ID 83301 Email _____

- ☐ 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.

Signature of Applicant or Authorized Representative _____ Print Name and Title if applicable _____ 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 Split right
2. Is this a transfer for changes pursuant to Idaho Code § 42-221.08?
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**.
1.4 acres / 0.023 cfs of right 37-21649 will be changed to groundwater recharge to mitigate for the irrigation usage under permit application 37-23224.

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.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	37-21649	0.023	Groundwater Recharge	3/15 to 11/15	Little Wood R. / Malad R.
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.023 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.023 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	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	SE	36	05S	14E	Gooding	Little Wood River	Existing Pump

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	
05S	14E	36																Rch	
Total Acres (for irrigation use)																			

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:

Existing pump and mainline, tee from mainline through lockable valve and IDWR-approved flow meter, infiltration trench approximately 320 feet in length.

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

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

- 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:

1.4 acres will be retired

- 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:

- 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:

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. CHANGES IN NATURE OF USE (Water Balance)

- ### C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

[illegible]

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Preliminary check by _____ Date _____

Fee paid _____ Date _____ Received by _____ Receipt # _____

Add'l fee paid _____ Date _____ Received by _____ Receipt # _____

Page 6

Page _____ of _____

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

Current Water Right No.: 37-21849

Current Owner: DEBRA A INFANGER
JOHN N INFANGER

Priority Date: 4/1/1883

Origin: Water Right

Status: Active

Basis: Decreed

Source

LITTLE WOOD RIVER

Tributary

MALAD RIVER

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Diversion Rate

0.2 CFS

Annual Volume

0.2 CFS

Total Diversion

Location of Point(s) of Diversion

LITTLE WOOD RIVER

SE1/4SE1/4

Sec. 36, Twp 05S, Rge 14E B.M.

GOODING County

Place of Use

IRRIGATION Within GOODING County

T05S R14E S36

SESE

14.20

Total Acres: 14.2

Page _____ of _____

Conditions of Approval:

1. K06 This right is limited to the irrigation of 12.0 acres within the place of use described above in a single irrigation season.
2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District 37-M.
3. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. This right is a split from former right 37-21172.
5. 161 Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-VV-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.
6. R68 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
7. 004 This right does not grant any right-of-way or easement across the land of another.
8. 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: 2/23/2016



STIPULATION FOR WITHDRAWAL OF IDAHO POWER COMPANY'S PROTEST - 12

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Williams, Meservy & Larsen, LLP
Attorneys at Law

153 East Main
Post Office Box 168
Jerome, Idaho 83338-0168



JAMES C. MESERVY
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THEODORE R. LARSEN
KIMBERLY L. WILLIAMS - ASSOCIATE
BRANDON J. HESS - ASSOCIATE
ROBERT E. WILLIAMS - OF COUNSEL

TELEPHONE: (208) 324-2303
TELECOPIER: (208) 324-3135
E-MAIL: rewilliams@wmlattys.com

EUGENE D. FREDERICKSEN - RETIRED

RECEIVED

SEP 10 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

September 8, 2020

IDWR Southern Region
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858

RE: Application for Permit No. 37-23224 in the name of John N. Infanger and Debra A. Infanger

Gentlemen:

Enclosed for filing with your agency please find an original *Stipulation for Withdrawal of Idaho Power Company's Protest*.

Very truly yours,

WILLIAMS MESERVY & LARSEN, LLP

ROBERT E. WILLIAMS

REW/mmb

Encl.

C: Client

Charles G. Brockway

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