

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84538**

This is to certify that: JOHN L HARRIS & SUSAN KAY HARRIS FAMILY TRUST
PO BOX 86
CARMEN, ID 83462

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>
75-14844	WR/DECREED	4/1/1896	0.160 cfs	N/A	N/A	4.0	FOURTH OF JULY CREEK

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>
75-14844	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>
75-14844	75-14844	0.160 cfs	N/A	N/A	4.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.160 cfs	N/A	N/A	4.0		N/A	N/A	N/A	N/A

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

Dated this 22nd day of DECEMBER, 2020.


ANGELA GRIMM, Water Rights Section Manager

WATER RIGHT NO. 75-14844**As Modified by Transfer No. 84538**

In accordance with the approval of Transfer No. 84538, Water Right No. 75-14844 is now described as follows:

Right Holder: JOHN L HARRIS & SUSAN KAY HARRIS FAMILY TRUST
PO BOX 86
CARMEN, ID 83462

Priority Date: 4/1/1896

Source: FOURTH OF JULY CREEK

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION
IRRIGATION

From

04/01
08/02

To

to 08/01
to 11/01

Diversion Rate

0.160 cfs
0.120 cfs
0.160 cfs

LOCATION OF POINT(S) OF DIVERSION

FOURTH OF JULY CREEK SENE

Sec 20 Twp 24N Rge 22E LEMHI 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	
24N	22E	20											0.2						0.2
24N	22E	29						3.8											3.8

POU Total Acres: 4.0

CONDITIONS OF APPROVAL

1. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
2. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
3. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 84538

WATER RIGHT NO. 75-14844
As Modified by Transfer No. 84538

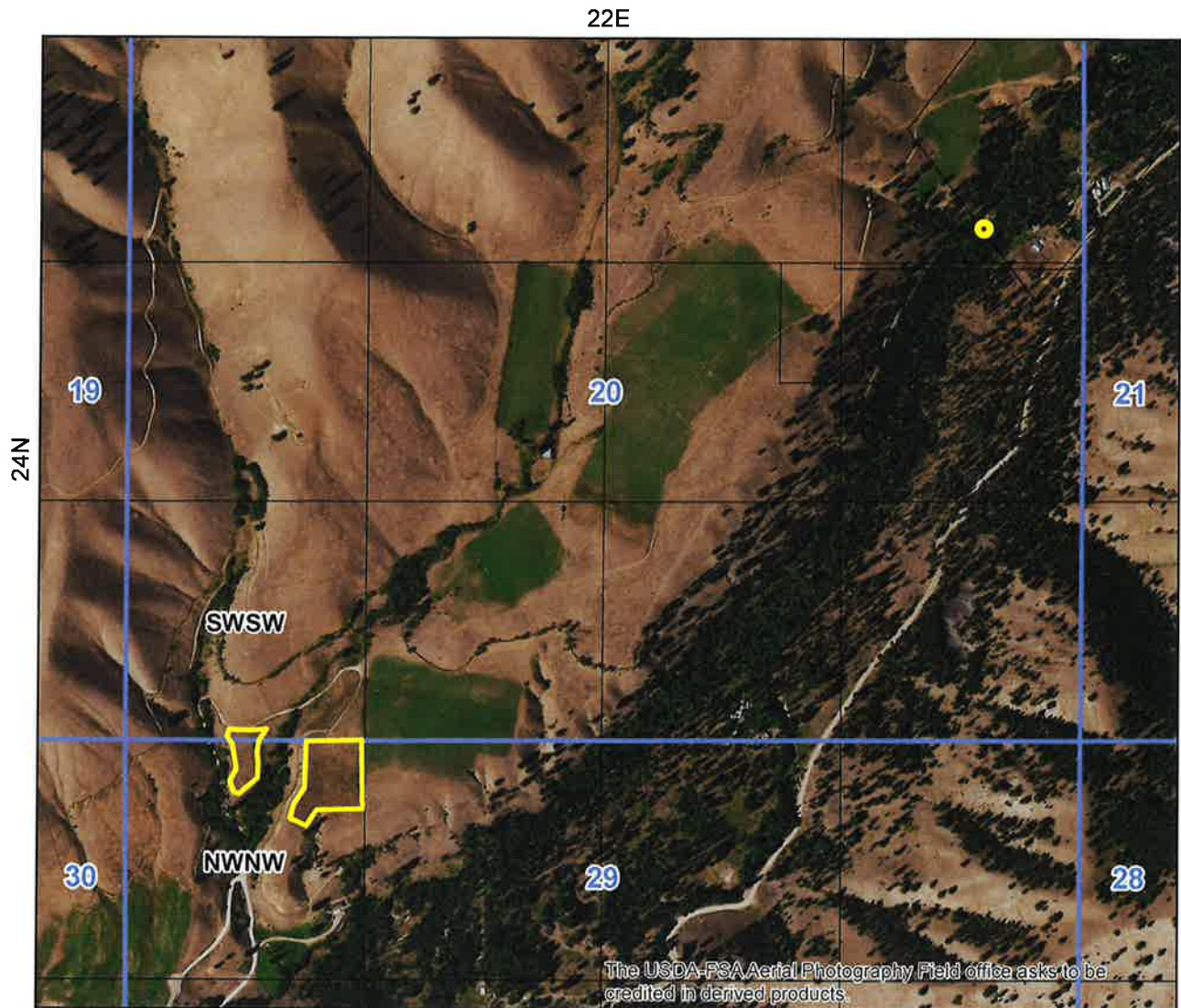
CONDITIONS OF APPROVAL

6. 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 No. 84538
75-14844

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 0.1 0.2 0.4 Miles



RECEIVED

NOV 06 2020

DEPT OF WATER RESOURCES
SALMON OFFICESTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

84538
RECEIVED

NOV 12 2020

DEPARTMENT OF
WATER RESOURCES

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 www.idwr.idaho.gov.

Name of Applicant(s) John L Harris and Susan Kay Harris Family TrustCheck 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 www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☒ #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

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) John L Harris and Susan Kay Harris Family Trust Phone 208-865-2436

Mailing address PO Box 86, Carmen ID 83462 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 _____ Phone _____

Mailing address _____ 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.

Susan Kay Harris
Signature of Applicant or Authorized Representative

Susan Kay Harris Trustee
Print Name and Title if applicable

11/06/2020
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. 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.2**.

To correct errors made during processing of transfer 82812. Acres in NWNE Sec29 should be in NWNW Sec29.

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 ☐ ☐	75-14844	0.16	Irrigation	04/01 to 11/01	Fourth of July Ck/Salmon R
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.16 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.16 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 #

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	
24N	22E	20											0.2						0.2
24N	22E	29						3.8											3.8
Total Acres (for irrigation use)																			4.0

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:

Existing shared ditch and adjustable headgate. Water is taken from ditch in 2" pipes to sprinklers. Measuring device will be installed by water users when required.

- b. Who owns the property at the point(s) of diversion? Don Bellamy

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
existing ditch, no change to POD

- 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:

There will be no changes. IDWR water right shape is correct, but acres in NWNW S29 are incorrectly described in NWNE S29.

- 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:

No other rights for this irrigation use. Rights diverting at the shared pod are used on other lands.

- 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:

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

Current Water Right No.: 75-14844

Current Owner: JOHN L HARRIS & SUSAN KAY HARRIS FAMILY TRUST
Priority Date: 4/1/1896
Origin: Water Right
Status: Active
Basis: Decreed

Source

FOURTH OF JULY CREEK

Tributary

SALMON RIVER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION	04/01 to 08/01	0.16 CFS
IRRIGATION	08/02 to 11/01	0.12 CFS
	<u>Total Diversion</u>	0.16 CFS

Location of Point(s) of Diversion

FOURTH OF JULY CREEK

SE1/4NE1/4

Sec. 20, Twp 24N, Rge 22E B.M.

LEMHI County

Place of Use

IRRIGATION Within LEMHI County

T24N R22E S20	SWSW	0.20	T24N R22E S29	NWNE	3.80
Total Acres: 4					

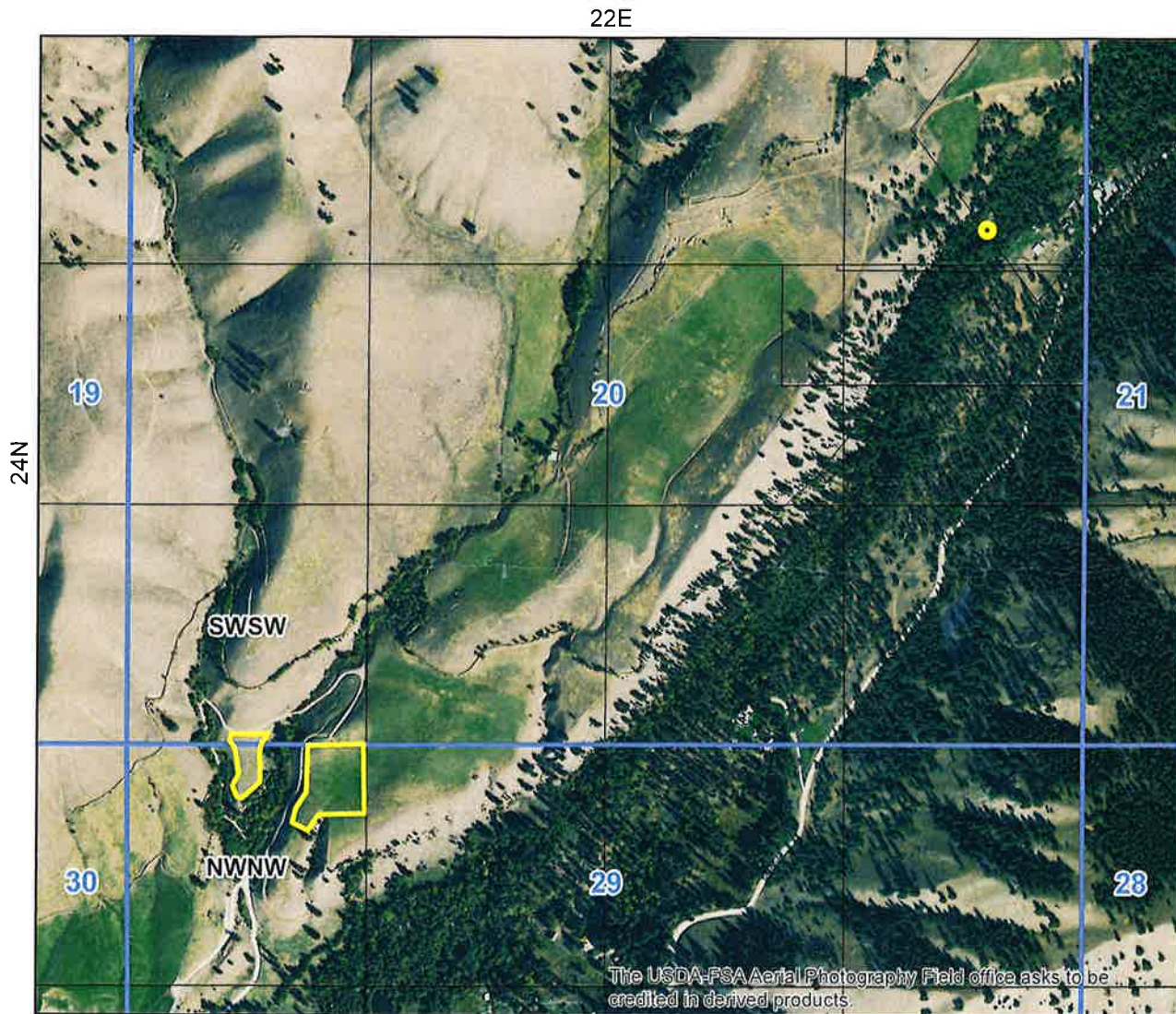
Conditions of Approval:

1. T19 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.
2. 197 Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
3. 198 When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 01H Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.

84538

84538

State of Idaho
Department of Water Resources
Water Right License
75-14844



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

0 0.1 0.2 0.4 Miles



84538



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

December 23, 2020

JOHN L HARRIS & SUSAN KAY HARRIS FAMILY TRUST
PO BOX 86
CARMEN ID 83462

Re: Transfer No: 84538
Water Right No.: 75-14844
Transfer Approval Notice

Dear Water Right Holder:

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

The Transfer of Water Right is a PRELIMINARY ORDER issued by the Department pursuant to Idaho Code § 67-5243. 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 Idaho Code § 42-1701A(3). 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) 287-4800.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela M. Grimm". The signature is fluid and cursive, with a long horizontal stroke at the end.

Angela Grimm

Water Rights Section Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 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.: 84538
 Water Right No.: 75-14844**

**JOHN L HARRIS & SUSAN KAY HARRIS FAMILY TRUST
PO BOX 86
CARMEN ID 83462**

A handwritten signature in blue ink, appearing to read "Debbi Judd", is written over a horizontal line.

**Debbi Judd
Technical Records Specialist**

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: December 4, 2020
To: Transfer 84538
From: David Betts
Re: Review & Evaluation of Sufficiency of Information

Background: On November 6, 2020, Susan and John Harris ("applicants") filed an application for transfer of a water right ("application") to correct the legal description for the place of use (POU) of water right no. 75-14844. The applicants propose changing the legal description to match the existing use of the right, and to match the corresponding map and GIS shapefile that are being used to represent the POU. In a letter accompanying the application, the applicants request expedited processing due to the pending sale of a portion of the proposed POU.

On March 29, 2019, a previous application for transfer was approved (Transfer no. 82812) to change the POU of the same right. The applicants submitted the incorrect legal description for the POU, which did not agree with the accompanying map or the applicants' statements describing the purpose of the transfer. IDWR processing staff did not notice the disagreement between the legal description of the POU and the accompanying map and statements. The approval of Transfer no. 82812 placed 3.8 acres of the water right in the NWNE quarter-quarter of section 29 of Township 24 N, Range 22 East, B.M. The applicants do not own property in the NWNE quarter-quarter.

For this application (no. 84538), the applicants have submitted the same map and a corrected legal description of the POU.

The applicants have requested a lower fee and no advertising, because they are requesting corrections to the legal description of the POU and no additional changes to the water right.

Authority to File: Lemhi county tax parcel information identify John and Susan Harris as the property owners of the proposed places of use at the time that the application was submitted.

On November 23, 2020, the Department received a Notification of a Change in Ownership for a portion of the proposed POU from Catherine Meikel. Meikel submitted a copy of the deed showing that a portion of the proposed POU was sold to her on November 11, 2020. If transfer no. 84538 is not approved, there would not be a water right that is appurtenant to Meikel's property.

The Department will assume that the submission of application for transfer no. 84583 indicates that the water right owners (Susan and John Harris) are in agreement with the property owner (Ms. Meikel) for the transfer of a portion of water right to Meikel's property. There does not appear to be a conflict with the authority to file.

The applicants are requesting to correct the legal description of the place of use, and have paid the \$50 dollar filing fee as required by Idaho Code § 42-221 (O.8).

Water Right Validity: The water right is presumed to be valid. The previous transfer review (March 11, 2019), and a memorandum from IDWR regional staff (November 6, 2020) indicate that this water right has been in use and should be considered valid. The place of use appears to have been at least partially irrigated in 2015, per NAIP imagery.

Injury to Other Water Rights: Only the legal description of the place of use is changing. There appears to be no potential for injury to other water rights.

Enlargement of Use: This transfer proposes only to correct to the POU description. There is no risk of enlargement of use.

Local Public Interest: There do not appear to be any conflicts with local public interest.

Beneficial Use/Conservation of Water Resources: The proposed transfer will not change the authorized beneficial use. The transfer appears consistent with the conservation of water resources in Idaho.

Effect on Economy and Agricultural Base of the Local Area: This transfer proposes only to correct to the POU description, and should have no effect on the local economy or the local agricultural base.

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

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DEPARTMENT OF
WATER RESOURCES

Memorandum

November 6, 2020

TO: Cody Parker, Permits Section

FROM: Cindy Yenter, Salmon Field Office

RE: Memo in support of second correction transfer for 75-14844

Transfer 82812 was approved on the above right March 29, 2019. The purpose of the 2019 transfer was to correct an incorrectly decreed place of use for 4 acres irrigation, from SWSW S20, T24NR22E, to the historic place of use in NWNW S29. At the same time, applicants proposed to reduce irrigation at the historic POU in order to move 1 acre irrigation to a different location within NWNW S29 and SWSW S20.

Processing for transfer 82812 was riddled with errors, beginning with an incorrect QQ designation on the application itself. The map accompanying the application was correct, and was supported by a statement on the application. Processing staff did not notice that the map did not match the legal description for the acres. Consequently the transfer was approved with a correct water right shape, but an incorrect POU description which placed 3.8 acres irrigation in NWNE S29. Right holders do not own land in this QQ.

The transfer was issued as a preliminary order, progressing to final order two weeks later. This error was not realized until just recently, when right holders contacted me regarding a sale of one of their parcels containing a portion of the water right. There is no longer an opportunity to correct or amend the transfer, so a second transfer is being filed.

Transfer 82812 was processed as a full-price transfer due to the relocation of historic acres, but was processed without advertising because the POD did not change. At the time of processing, no forfeiture issues were found. This was an appropriate conclusion based on a review of imagery. 2017 and 2019 NAIP images are not conclusive, but 2015 imagery clearly shows irrigation of 4 acres within the historic place of use in NWNW S29.

The change authorized by transfer 82812 has been accomplished and beneficial use has continued. Right holders indicate that the change in place of use for the 1 acre occurred in 2019 after approval of transfer 82812. 2020 Landsat images evidence reduced irrigation at the historic POU and new irrigation at the transferred POU (see p40r29_18_20200829).

IDWR clearly erred in preparation and processing of the prior transfer 82812, and should process a second transfer to correct the errors. The transfer should be processed at a reduced \$50 fee and without advertising.

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DEPT OF WATER RESOURCES
SALMON OFFICE

November 6, 2020

Cody Parker
Idaho Department of Water Resources
PO Box 10820
Boise ID 83720-0098

RE: Request for Expedited Transfer Processing, Water Right No. 75-14844

Mr Parker:

Enclosed is an application for transfer which seeks to correct errors in the above water right resulting from the approval of Transfer 82812 in 2019. We have made the changes to the place of use that were intended by Transfer 82812. No additional changes will be made pursuant to this transfer.

Due to a pending sale of part of our property, specifically the Bobcat Ridge Ranch parcel, we are requesting expedited processing of this transfer application. We are also requesting that the transfer be processed at a reduced fee of \$50, and without advertising.

Respectfully,

John and Susan Harris
PO Box 86
Carmen, ID 83462
208-865-2436

Susan Harris
John F. Harris