

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84472**

This is to certify that: JAMES L WELLS AND  
RUTH T WELLS  
790 E 3800 N  
BUHL, ID 83316-5934

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>
47-7270	WR/DECREED	1/6/2000	1.020 cfs	400.0 af	N/A	100.0	GROUND WATER

**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>
47-7270	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>
47-7270	47-7270	1.020 cfs	400.0 af	N/A	100.0	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>1.020 cfs</b>	<b>400.0 af</b>	<b>N/A</b>	<b>100.0</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 19<sup>th</sup> day of November, 2020.

  
\_\_\_\_\_  
Southern Region Manager

Transfer No. 84472

**WATER RIGHT NO. 47-7270**  
**As Modified by Transfer No. 84472**

In accordance with the approval of Transfer No. 84472, Water Right No. 47-7270 is now described as follows:

**Right Holder:** JAMES L WELLS AND  
 RUTH T WELLS  
 790 E 3800 N  
 BUHL, ID 83316-5934

**Priority Date:** 1/6/2000

**Source:** GROUND WATER

<b><u>BENEFICIAL USE</u></b>	<b><u>From</u></b>	<b><u>To</u></b>	<b><u>Diversion Rate</u></b>	<b><u>Diversion Volume</u></b>
IRRIGATION	03/15	to 11/15	1.020 cfs	400.0 af
			1.020 cfs	400.0 af

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

GROUND WATER                      SESW                      Sec 12 Twp 10S Rge 13E TWIN FALLS 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	
10S	13E	12											7.8	29.0			23.0		59.8
10S	13E	13		6.1	3.1		19.0			12.0									40.2

POU Total Acres: 100.0

**CONDITIONS OF APPROVAL**

1. 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.
2. 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.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. 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. Pursuant to Section 42-1412(6), Idaho Code, 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.

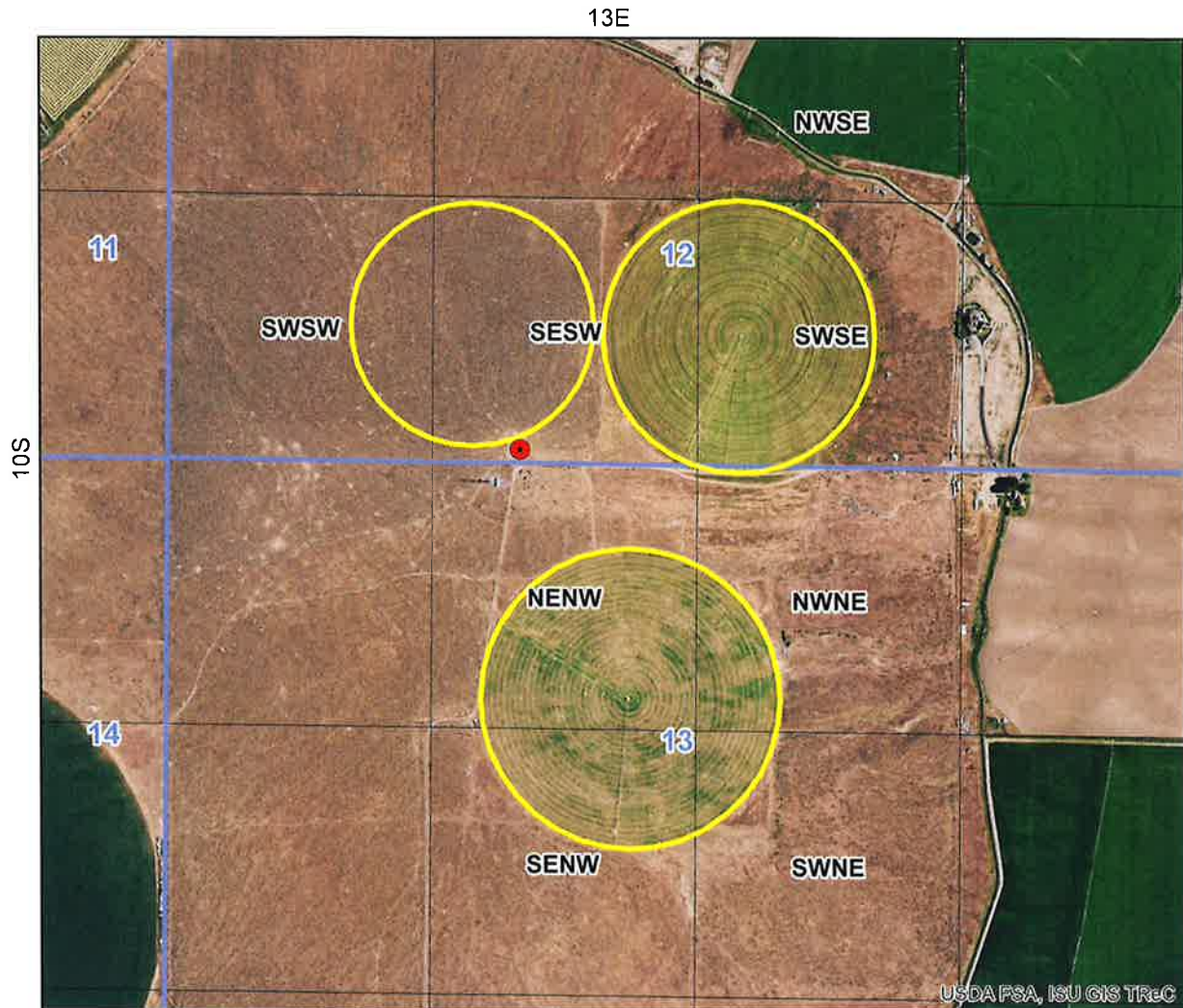
Transfer No. 84472






State of Idaho  
Department of Water Resources

# Attachment to Transfer # 84472

47-7270

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



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. 84472

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

RECEIVED

NOV 19 2020

An application for transfer must be prepared in accordance with the minimum requirements listed below to be accepted 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 <http://www.idwr.idaho.gov/>.

Name of Applicant(s) JAMES L WELLS AND RUTH T WELLS

**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 #1-9.**

- ☐ ☐ #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 transfer 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).
- ☐ ☐ #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 <http://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.
- ☐ ☐ #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.)
- ☐ ☐ #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 Other. Please describe: \_\_\_\_\_



STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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NOV 19 2020

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

DEPT OF WATER RESOURCES  
SOUTHERN REGION

Name of Applicant JAMES L WELLS Phone (208) 308-1950  
Mailing Address 790 E 3800 N, BUHL ID 83316-5934 Email wells1950@gmail.com  
Name of Applicant RUTH T WELLS Phone (208) 308-1950  
Mailing Address 790 E 3800 N, BUHL ID 83316-5934 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.

James L. Wells James L. Wells Nov 18, 20  
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date  
Ruth T. Wells Ruth T. Wells 11-18-2020  
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

1.	Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
	47-7270	No	No	Yes	No	No	No

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

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

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**

Transfer proposes to modify the place of use of ground water irrigation right 47-7270 to reflect anticipated changes in the irrigation system.

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

1. Detailed Water Right Description(s) Attached labeled Part 1.

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

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
47-7270	1.020 cfs	400.0 af	N/A	100.0		N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>	1.020 cfs	400.0 af	N/A	100.0		N/A	N/A	N/A	N/A

2. Total amount of water proposed to be transferred or changed 1.02 cubic feet per second and/or \_\_\_\_\_ acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5.**

4. Place of Use:

- ☐ No changes to place of use are proposed. (Proceed to #5.)
- ☒ As shown in Part 1.
- ☐ See Attachment.

**IDAHO DEPARTMENT OF WATER RESOURCES**  
**APPLICATION FOR TRANSFER OF WATER RIGHT**  
**PART 1 Transfer Right After Requested Changes**

**Proposed Water Right No. 47-7270**

Current Water Right Owner

JAMES L WELLS  
 790 E 3800 N  
 BUHL, ID 83316-5934

AND

RUTH T WELLS  
 790 E 3800 N  
 BUHL, ID 83316-5934

Priority Date: 1/6/2000

Origin: Water Right

Basis: Decreed

Status Active

**Source: GROUND WATER**

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.020 CFS	400.0 AFA	
Total Diversion			1.020 CFS	400.0 AFA	

**Source and Point(s) of Diversion:**

GROUND WATER

SESW

Sec. 12 Twp 10S Rge 13E TWIN FALLS 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	
10S	13E	12											7.8	29.0			23.0		59.8
10S	13E	13		6.1	3.1		19.0			12.0									40.2

POU Total Acres: 100.0

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

Measuring device is in place

- b. Who owns the property at the point(s) of diversion  
Applicants

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?  
No, ☐ 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: North West Farm Credit - Mortgage

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

NA

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

NA

- f. 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. 47-7270**

Current Water Right Owner

JAMES L WELLS  
790 E 3800 N  
BUHL, ID 83316-5934

AND

RUTH T WELLS  
790 E 3800 N  
BUHL, ID 83316-5934

Priority Date: 1/6/2000

Origin: Water Right

Basis: Decreed

Status: Active

**Source: GROUND WATER**

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.020 CFS	400.0 AFA	
Total Diversion			1.020 CFS	400.0 AFA	

**Source and Point(s) of Diversion:**

GROUND WATER

SESW

Sec. 12 Twp 10S Rge 13E TWIN FALLS 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	
10S	13E	12												10.6			23.5		34.1
10S	13E	13		24.2	10.9		19.1			11.7									65.9

POU Total Acres: 100.0

**Conditions/Remarks:**

1. 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.
2. 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.
3. The right holder shall accomplish the change authorized by this transfer within five years of the date of this approval.
4. 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. Pursuant to Section 42-1412(6), Idaho Code, 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.

# APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 3

☒ **Attach a map of the diversion, measurement, control, and distribution system. Label it Attachment #7a.**

☐ **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. Label it Attachment #7b. 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.**

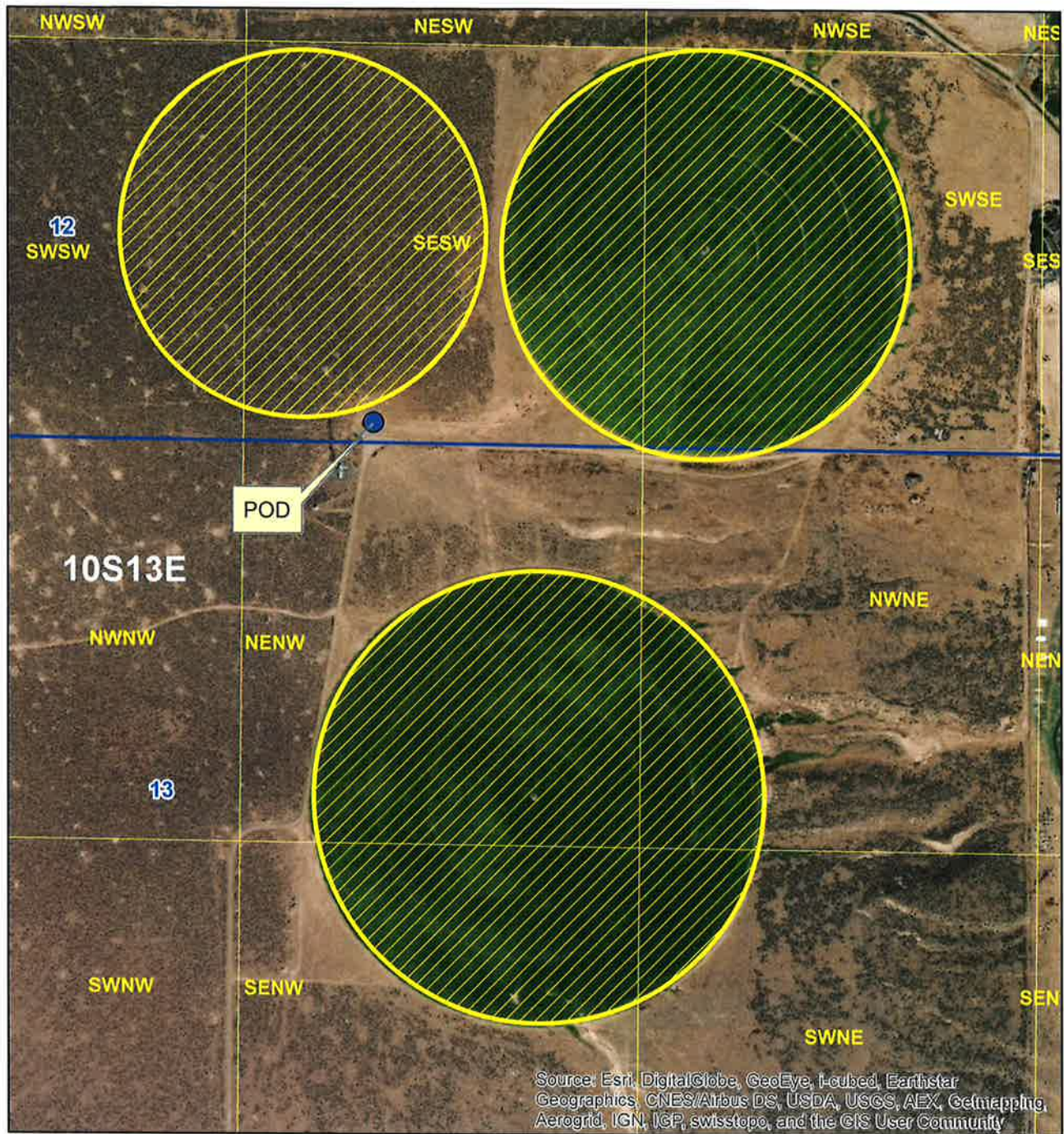
☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**

1. 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.:

Received By \_\_\_\_\_ Date \_\_\_\_\_ Prelim. Check By \_\_\_\_\_ Date \_\_\_\_\_  
 Fee Paid \$500.00 Date 11/19/20 Received By SG Receipt # 5038254  
 Add'l Fee Paid \_\_\_\_\_ Date \_\_\_\_\_ Received By \_\_\_\_\_ Receipt # \_\_\_\_\_

# Wells Transfer #84472



## Legend

- Township/Range
- Sections
- QQ
- Proposed Place of Use

**TRANSFER 84472**

0 0.05 0.1 0.2 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](http://www.idwr.idaho.gov) • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

November 27, 2020

JAMES L WELLS  
RUTH T WELLS  
790 E 3800 N  
BUHL ID 83316-5934

Re: Transfer No: 84472  
Water Right No(s): 47-7270

**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,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with a small mark above the "i" in "Skinner".

Corey Skinner  
Southern Regional Manager

Enclosure

## CERTIFICATE OF SERVICE

I hereby certify that on November 27, 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.: 84472  
Water Right No(s): 47-7270

JAMES L WELLS  
RUTH T WELLS  
790 E 3800 N  
BUHL ID 83316-5934



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 19, 2020  
**To:** Transfer #84472, Jim and Ruth Wells File  
**From:** Jim Bitzenburg  
**Re:** Evaluation of Sufficiency of Information Submitted

---

Application for transfer proposes to modify the place of use (POU) for irrigation ground water right 47-7270 (1.02 cfs, 100.0 acres) to reflect anticipated changes in the irrigation system. The proposed place of use is located 6.2 to 6.8 miles west and 1.7 to 2.4 miles south of the intersection of Broadway Avenue and Clear Lake Road in Buhl.

The transfer did not need to be advertised because it is changing the place of use of contiguous parcels.

Watermaster comments were not solicited because the point of diversion is not within a water district.

- **Authority to File:**  
The Department's database indicates that water right 47-7270 is owned by the applicants, James and Ruth Wells. Application was signed by James and Ruth Wells. Tax parcel information shows the Wells to be the owners of the lands involved in the transfer. In addition, the Wells completed a similar transfer for this right in February of 2017.
- **Water Right Validity:**  
Water right 47-7270 was decreed in June of 2010. It has been the subject of two water right transfers since that time, so forfeiture may not be an issue.
- **Injury to Other Water Rights:**  
None anticipated or foreseen.
- **Enlargement of Use:**  
None anticipated. There will be no increase in irrigated acreage.
- **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 of the Agricultural Base of the Area:**  
None Anticipated

**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.**

## MEMORANDUM

**Date:** November 19, 2020  
**To:** Transfer 84472  
**From:** James Bitzenburg  
**Re:** Legal Notice Not Required

Legal Notice Not Required  
11/19/2020

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

The transfer proposes changing the place of use of contiguous parcels, so any hydrologic effects will be minimal.

## TRANSFER SYNOPSIS

**Date:** November 19, 2020  
**To:** Transfer #84472, Jim and Ruth Wells file  
**From:** Jim Bitzenburg  
**Re:** Summary of transfer

---

Application for transfer proposes to modify the place of use (POU) for irrigation ground water right 47-7270 (1.02 cfs, 100.0 acres) to reflect anticipated changes in the irrigation system. The proposed place of use is located 6.2 to 6.8 miles west and 1.7 to 2.4 miles south of the intersection of Broadway Avenue and Clear Lake Road in Buhl.

The transfer does not need to be advertised because it is changing the place of use of contiguous parcels.

Watermaster comments will not be solicited because the point of diversion is not within a water district.

## FEE MEMORANDUM

**Date:** November 19, 2020  
**To:** James and Ruth Wells Transfer #84472 File  
**From:** Jim Bitzenburg  
**Re:** Receipting/disposition of fees paid

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This transfer was filed on November 19, 2020 and its purpose is to change the place of use of a single water right to reflect anticipated changes in the irrigation system. The fee is based on the amount of acres changing and that percentage of the total POU acres is multiplied by the flow rate to come up with the portion of flow rate changed in the transfer. In this case, 26.5 acres are changing, which translates into 0.27 cfs of flow rate, so from the transfer fee schedule, the fee is \$500.00. The fee was paid by James Wells with check #1271, IDWR receipt #S038254.





815 N College Rd  
Twin Falls, ID 83301-3484  
Voice: 208.732.1000 Toll-Free: 800.733.9412 Fax: 208.732.1005

#6

Nov 02, 2020

James & Ruth Wells  
790 E 3800 N  
Buhl, ID 83316

RECEIVED  
NOV 10 2020  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

RE: Water Right Transfer -84472

Dear Borrower,

Northwest Farm Credit Services, FLCA concurs with the proposed changes that are listed on application for transfer of water right regarding water right 47-7270.

If you have any questions or need additional information, feel free to contact me at (208)732-1000.

Sincerely,

Bronson Reeder  
Relationship Manager

STATE OF Idaho )  
County of Twin Falls )ss.

On this 2nd day of November, 2020, before me personally appeared Bronson Reeder, known to me to be the person described in and who executed the within instrument, and acknowledged that he executed the same as his free act and deed.

Printed name Debra K Toavs  
Notary Public for the State of Idaho  
Residing at Twin Falls  
My commission expires 7/16/2024

