

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84248**

This is to certify that: EDWARD ROBERT VIVIER AND/OR
SHERENE VIVIER
1320 S 14TH E
MOUNTAIN HOME, ID 83647-3547

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>
61-12340	WR/DECREED	4/20/1979	0.010 cfs	3.0 af	0.8	40.0	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>
61-12340	NO	YES	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>
61-12340	61-12340	0.010 cfs	3.0 af	0.8	2.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.010 cfs	3.0 af	0.8	2.0		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 04 day of November, 2020.

for, Pattie Kelly
Chief, Water Allocation Bureau

Transfer No. 84248

WATER RIGHT NO. 61-12340

As Modified by Transfer No. 84248

In accordance with the approval of Transfer No. 84248, Water Right No. 61-12340 is now described as follows:

Right Holder: SHERENE VIVIER AND/OR
EDWARD ROBERT VIVIER
1320 S 14TH E
MOUNTAIN HOME, ID 83647-3547

Priority Date: 4/20/1979

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.010 cfs	3.0 af
			0.010 cfs	3.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec 36 Twp 03S Rge 06E ELMORE 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	
02S	05E	1				2.0													2.0

Right Acre Limit: 0.8

POU Total Acres: 2.0

CONDITIONS OF APPROVAL

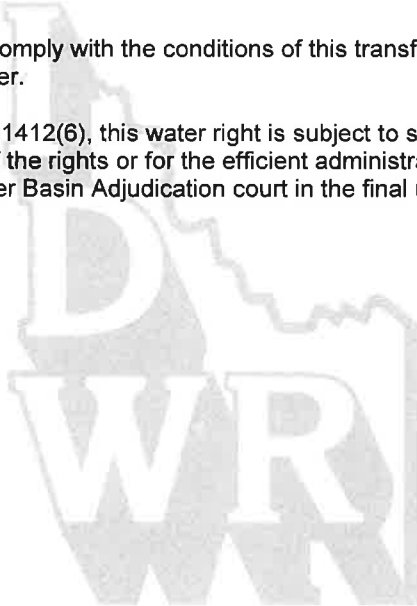
1. This right is limited to the irrigation of 0.8 acres within the authorized place of use in a single irrigation season.
2. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 10/26/2000.
3. 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 place of use.
4. Use of water under this right may 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 No. 161.

Transfer No. 84248

WATER RIGHT NO. 61-12340
As Modified by Transfer No. 84248

CONDITIONS OF APPROVAL

5. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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 Water Right Transfer No. 84248

WR: 61-12340

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.



-  Transfer POU
-  Transfer POD
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.025 0.05 0.1 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

November 4, 2020

EDWARD ROBERT VIVIER
SHERENE VIVIER
1320 S 14TH E
MOUNTAIN HOME ID 83647-3547

RE: Transfer No: 84248
Water Right No(s): 61-12340

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 concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wynne Evans".

Wynne Evans

For Patrick Kelly
Water Rights Supervisor

Enclosure(s)

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.

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 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.: 84248

Water Right No(s): 61-12340

EDWARD ROBERT VIVIER
1320 S 14TH E
MOUNTAIN HOME ID 83647-3547

SHERENE VIVIER
1320 S 14TH E
MOUNTAIN HOME ID 83647-3547



Lynne Evans
Office Specialist II

MEMORANDUM

TO: Transfer No. 84248

FROM: Anna Kaiser

DATE: 11/2/2020

RE: Evaluation of Application

The transfer proposes moving the POD and POU of water right 61-12340 approximately 12 miles south east.

The site is located in Mountain Home just north of the intersection of E. 12th South St. and S. 14th East Street.

Contact person is applicant Edward or Sherene Vivier. 1320 S. 14th East St. (208).919.1026. edsherene@msn.com.

Summary of Information Submitted

Authority to File:

Department records show Edward and Sherene Vivier are the most current owners of water right 61-12340 following an ownership change processed in October of 2019.

Water Right Validity:

In 2019, the Department split water right 61-12340 from 61-12019. In 2001, the Department split water right 61-12019 from 61-7384B. Validity of water right 61-12340 will largely be determined by the history of rights 61-7384B and 61-12019.

Partial decree of 61-7384B was issued in 2000. A year later, 61-7384B was split into six (6) rights including 61-12019. Department aerial imagery suggests some beneficial use of water right 61-12019 occurred between the years 2004 and 2011. Beneficial use has clearly not occurred since 2011. However, water right 61-12019 was leased to the Water Supply Bank (WSB) in 2011 and again in 2013. In 2015, water right 61-12019 was indefinitely leased to the WSB. The right was then when split to 61-12340 which currently remains in the WSB.

In summary, water right 61-12340 is presumed valid because partial decree was issued to a parent right in 2000 and is currently been held by the WSB.

Injury to Other Water Rights:

Transfer 84248 proposes moving water use into the Bruneau-Grandview ground water management area (GWMA) so injury must be considered. The right is being transferred out of a critical ground water management areas (CGWA). A transfer from a critical to a less critical ground water area will likely improve over-all water availability from the Department's perspective as water use in GWMAs is preferred over CGWAs. Injury is unlikely if the applicant follows the conditions and stipulations set on transfer approval.

Furthermore, surrounding wells will likely be unaffected by the transfer as water right 61-12340 only allows allocation of 0.01 cfs of water annually.

Enlargement of Use:

The transfer is not expected to enlarge water usage. The right will maintain the condition limiting irrigation to 0.8 acres annually. The transfer proposes a reduction in the permissible place of use. Since the water use falls within a GWMA, the applicant submitted a map outlining the specific 0.8-acre place of irrigation within their 2-acre ppu. The water right holder may shift the 0.8 irrigated acres within their ppu without transfer by submitting an updated POU map prior to any irrigation season.

Local Public Interest:

The Department sent the water master of water district 161 notice of the proposed transfer. The water master expressed no concerns about the approval of this transfer. No evidence suggests the transfer conflicts with other areas of local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

Water Supply Bank

As discussed under the "Water Right Validity" section of this memo, water right 61-12340 is currently leased indefinitely to the WSB. The Department notified the WSB of transfer 84248 on 9/2/2020. The WSB expressed no concerns regarding approval of this transfer.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

0.8-acre POU within 2-acre POU

WR: 61-12340



PPU Boundary

0 0.01 0.02 0.04 Miles



RECEIVED

OCT 19 2020

WATER RESOURCES
WESTERN REGION

3mm ~ 105'
0.8 = 34,848 ft²

Kaiser, Anna

From: Kaiser, Anna
Sent: Friday, October 16, 2020 11:26 AM
To: 'edsherene@msn.com'
Subject: Transfer 84248 - POU Info Needed
Attachments: Letter- Information Request.pdf; TR 84248 PPU.PDF

Good Morning,

Please see the attached documents.

I placed this letter and map in the mail today. It will be sent to your address either today (10/16/2020) or Monday (10/19/2020). You may send response via mail or email.

Please let me know if you have any questions regarding the enclosed information.

Thank you!

Anna

Anna Kaiser | Water Resource Agent
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 16, 2020

EDWARD & SHERENE VIVIER
1320 S 14TH EAST
MOUNTAIN HOME ID 83647-3547

Re: Transfer Application No. 84248 – Information Request

Dear Applicants,

The Department of Water Resources (Department) is requesting some additional information from you at this time. Since water right 61-12340 is limited to 0.8 acres of irrigation within the 2-acre permissible place of use (ppu) proposed by your transfer, the Department requires you submit a map outlining the 0.8 acres you intend to irrigate.

With this letter, I attached a map of your 2-acre ppu. Please use this map to draw a shape within the outlined ppu indicating which 0.8 acres you will irrigate and submit the map back to me either in person or by mail or email.

Please do not hesitate to contact me with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anna Kaiser', is written over a light blue circular stamp.

Anna Kaiser | Water Resource Agent
IDWR | Western Regional Office
2735 W Airport Way | Boise ID 83705
anna.kaiser@idwr.idaho.gov | (208).334.

Enclosures: PPU MAP

0.8-acre POU within 2-acre PPU

WR: 61-12340



PPU Boundary

0 0.01 0.02 0.04 Miles



Kaiser, Anna

From: Kaiser, Anna
Sent: Friday, October 16, 2020 10:58 AM
To: Miller, Nick
Subject: Application for Transfer No. 84248
Attachments: Watermaster Recommendation Form_F.PDF; Transfer 84248.pdf

October 16, 2020

NICK MILLER
WATER DISTRICT #161

RE: Application for Transfer No. 84248

Dear Watermaster:

The above referenced transfer application may be of interest to you. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office **within the next fourteen (14) days**.

IDWR will assume you do not object to these applications if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Anna Kaiser | Water Resource Agent
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

RECEIVED

SEP 28 2020

AFFIDAVIT OF PUBLICATION

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 84248

EDWARD ROBERT VIVIER and SHERENE VIVIER, 1320 S 14TH E, MOUNTAIN HOME, ID 83647-3547 has filed Application No. 84248 for changes to the following water rights within ELMORE County(s): Right No(s). 61-12340; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/que-rynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: Transfer Proposes to move water right 61-12340 from the SE quarter of section 1, township 02S, range 05E approximately 12 miles southeast to the SENE quarter-quarter of section 36, township 03S, range 06E. Water will be used in Mountain Home, ID, near the intersection of E 12th S St. and S 14th E St., about a half mile from Old Hwy. 30. No changes are proposed to the nature of water use or source of water. Permissible Place of use will be reduced from 40 acres to 2 acres.

For additional information concerning the property location, contact Western Region office at (208)334-2190. 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, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 10/5/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

First Publication:
September 16, 2020
Second Publication:
September 23, 2020

WATER RESOURCES
WESTERN REGION

County of Elmore
State of Idaho

}ss.

I, **Joy Martinez**, do solemnly swear that I am the Legal Clerk of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 16 day of Sept, 2020, and the last publication having been made on the 23 day of Sept, 2020; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Joy Martinez
Legal Clerk

Subscribed and sworn to me this 23rd day of Sept 2020.

Brenda M. Fincher
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-16-2022**.

