

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84403**

This is to certify that: **FRIENDS DAIRY LLC**
PO BOX 580
MARSING, ID 83639

SUPPORT DATA

IN FILE # 63-28989

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>
63-28989	WR/DECREED	6/30/1940	0.040 cfs	N/A	N/A	N/A	GROUND WATER
63-28990	WR/DECREED	8/1/1987	0.040 cfs	N/A	N/A	N/A	GROUND WATER
63-31599	WR/LICENSE	12/16/2002	0.330 cfs	22.2 af	N/A	N/A	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>
63-28989	NO	YES	NO	NO	NO	NO
63-28990	NO	YES	NO	NO	NO	NO
63-31599	NO	YES	NO	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>
63-28989	63-28989	0.040 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-28990	63-28990	0.040 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-31599	63-31599	0.330 cfs	22.2 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.410 cfs	N/A	N/A	N/A		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 27 day of October, 2020.


for, Chief, Water Allocation Bureau

Transfer No. 84403

WATER RIGHT NO. 63-28989

As Modified by Transfer No. 84403

In accordance with the approval of Transfer No. 84403, Water Right No. 63-28989 is now described as follows:

Right Holder: FRIENDS DAIRY LLC
PO BOX 580
MARSING, ID 83639

Priority Date: 6/30/1940

Source: GROUND WATER

BENEFICIAL USE
STOCKWATER

From 1/01 **To** 12/31

Diversion Rate
0.040 cfs
0.040 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec 32 Twp 04N Rge 04W CANYON County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
2. Rights 63-28989, 63-28990 and 63-31599 when combined shall not exceed a total annual maximum diversion volume of 7.9 af afa for stockwater use.
3. The quantity of water decreed for this water right is not a determination of historical beneficial use.
4. 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.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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. 84403

WATER RIGHT NO. 63-28990

As Modified by Transfer No. 84403

In accordance with the approval of Transfer No. 84403, Water Right No. 63-28990 is now described as follows:

Right Holder: FRIENDS DAIRY LLC
PO BOX 580
MARSING, ID 83639

Priority Date: 8/1/1987

Source: GROUND WATER

BENEFICIAL USE
STOCKWATER

From
1/01

To
to 12/31

Diversion Rate
0.040 cfs
0.040 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec 32 Twp 04N Rge 04W CANYON County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
2. Rights 63-28989, 63-28990 and 63-31599 when combined shall not exceed a total annual maximum diversion volume of 7.9 af afa for stockwater use.
3. The quantity of water decreed for this water right is not a determination of historical beneficial use.
4. 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.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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. 84403

WATER RIGHT NO. 63-31599**As Modified by Transfer No. 84403**

In accordance with the approval of Transfer No. 84403, Water Right No. 63-31599 is now described as follows:

Right Holder: FRIENDS DAIRY LLC
PO BOX 580
MARSING, ID 83639

Priority Date: 12/16/2002

Source: GROUND WATER

BENEFICIAL USE

COMMERCIAL
STOCKWATER

From

01/01
01/01

to 12/31
to 12/31

Diversion Rate

0.330 cfs
0.330 cfs
0.330 cfs

Diversion Volume

14.3 af
7.9 af
22.2 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENE

Sec 32 Twp 04N Rge 04W CANYON County

PLACE OF USE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

CONDITIONS OF APPROVAL

1. Rights 63-31599, 63-28989, and 63-28990 when combined shall not exceed a total annual maximum diversion volume of 7.9 afa for stockwater 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 determine the amount of water diverted from power records and shall annually report the information to the Department.

Transfer No. 84403

WATER RIGHT NO. 63-31599

As Modified by Transfer No. 84403

CONDITIONS OF APPROVAL

3. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
4. Commercial use is for a dairy.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

State of Idaho
Department of Water Resources

Attachment to Water Right Transfer 84403

63-28989 and 63-28990

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



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

0 0.05 0.1 0.2 Miles



State of Idaho
Department of Water Resources






Attachment to Water Right Transfer 84403

63-31599

This map depicts the STOCKWATER & COMMERCIAL 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.

04W



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

0 0.05 0.1 0.2 Miles



SEP 21 2020

42-222 POD - 07/18

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split
☐ Transfer is for changes pursuant to [Idaho Code § 42-221.O.8](#). Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Friends Dairy LLC Phone (208)697-4626
 2. **MAILING ADDRESS** PO Box 580 City Marsing
 State ID Zip 83639 Email NSDeruyter@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 63-28989, 63-28990, 63-31599

- ☒ Attach a copy of the water right(s) as recorded, available at [idwr.idaho.gov](#), *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.41 cubic feet per second and/or 22.2 acre-feet per annum.
 (diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at [idwr.idaho.gov](#), *Water Rights, Water Right Transfers, Modeling Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes			SE	NE	32	04N	04W	Canyon	Groundwater	D0074542

6. 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:

50 hp sub. pump from well to 8" line to holding tank, then to milking barn for commercial use and to corrals for stockwater use. Current well control box is lockable, measuring device will be accommodated upon request.

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

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

- c. 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 used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

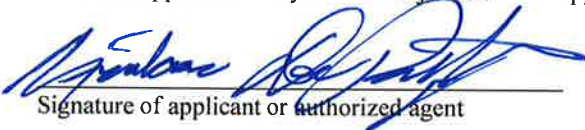
If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. MAP – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C*.

8. SIGNATURE – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Nicolaas Deruyter, registered agent
Print name and title if applicable

9-15-20
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. FEE – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes 11 pages of attachments.

Received by CD

Date 09/21/2020

Fee paid \$500⁰⁰ Date 09/21/2020

Received by CD

Receipt # W048718

Preliminary review by TS

Date 9/29/20

Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☐

Name on W-9

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Attachment to Water Right Transfer

This map depicts the location of an existing well to be used as the point of diversion for 63-28989, 63-28990 and 63-31599.



0 0.045 0.09 0.18 Miles

● New POD for 63-28989, 63-28990 and 63-31599



Townships



PLS Sections



Quarter Quarters



IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/26/2020

Water Right 63-28989

Owner Type **Name and Address**
Current Owner FRIENDS DAIRY LLC
 PO BOX 580
 MARSING, ID 83639
 (208) 697-4626

Priority Date: 6/30/1940

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	1/01	12/31	0.040 CFS	
	<u>Total Diversion</u>		0.040 CFS	

Source and Point(s) of Diversion

GROUND WATER NWSWNW Sec. 33, Twp 04N, Rge 04W, CANYON County

Place Of Use

STOCKWATER within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. STOCKWATER, 650 DAIRY CATTLE PARCEL NO. 04N04W332400

Comments:

1. AJU10-DS 6/22/2000 AJU10 CONDITION UPDATE
CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates and Other Information

Decreed Date: 5/26/2000

Civil Case Number: 39576

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/26/2020

Judicial District: FIFTH
State or Federal: S
Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

Rate

Volume

Acres

7.9

63-28989 ,63-28990 ,63-31599

Verification Log

SubCase:

N/A

Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/26/2020

Water Right 63-28990

Owner Type
Current Owner

Name and Address
FRIENDS DAIRY LLC
PO BOX 580
MARSING, ID 83639
(208) 697-4626

Priority Date: 8/1/1987

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	1/01	12/31	0.040 CFS	
	Total Diversion		0.040 CFS	

Source and Point(s) of Diversion

GROUND WATER SWSWNW Sec. 33, Twp 04N, Rge 04W, CANYON County

Place Of Use

STOCKWATER within CANYON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	33							X										

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. STOCKWATER, 650 DAIRY CATTLE PARCEL NO. R04N04W332400

Comments:

1. SEGBERT 6/19/1998 COPIED FROM REMARKS
DAIRY NUMBER INCREASES THROUGH THE YEAR.
2. AJU10-DS 6/22/2000 AJU10 CONDITION UPDATE
CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/26/2020

Dates and Other Information

Decreed Date: 5/26/2000
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
63-28989 ,63-28990 ,63-31599	7.9	

Verification Log

SubCase:

N/A

Water Supply Bank:

N/A

8/26/2020

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRIENDS DAIRY LLC PO BOX 580 MARSING, ID 83639 (208) 697-4626

Status: Active

Tributary

Volume

79 AF

14.3 AF

22.2 AF

Sec. 33, Twp 04N, Rge 04W, CANYON County

1.	X35	Rights 63-31599, 63-28989, and 63-28990 when combined shall not exceed a total annual maximum diversion volume of 7.9 afa for stockwater use.
2.	01M	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 determine the amount of water diverted from power records and shall annually report the information to the Department.
3.	103	When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/26/2020

based upon the reduction in flow caused by the use of water pursuant to this right.
Any order of the Director issued in accordance with this paragraph shall be in
conformance with applicable rules allowing the right holder due process as the need for
mitigation and the amount of mitigation are determined.

4. Commercial use is for a dairy.

Comments:

- | | | |
|-----------------------------|------------|-----|
| 1. cparker
Updated Shape | 12/1/2017 | POD |
| 2. cparker
Updated Shape | 12/1/2017 | POU |
| 3. cparker
Updated Shape | 12/28/2017 | POU |

Dates and Other Information

Licensed Date: 4/16/2019
Water District Number: TBD
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
63-28989 ,63-28990 ,63-31599	7.9	

Verification Log

SubCase:

N/A

Water Supply Bank:






N/A

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-28989

This map depicts the STOCKWATER 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.

04W



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

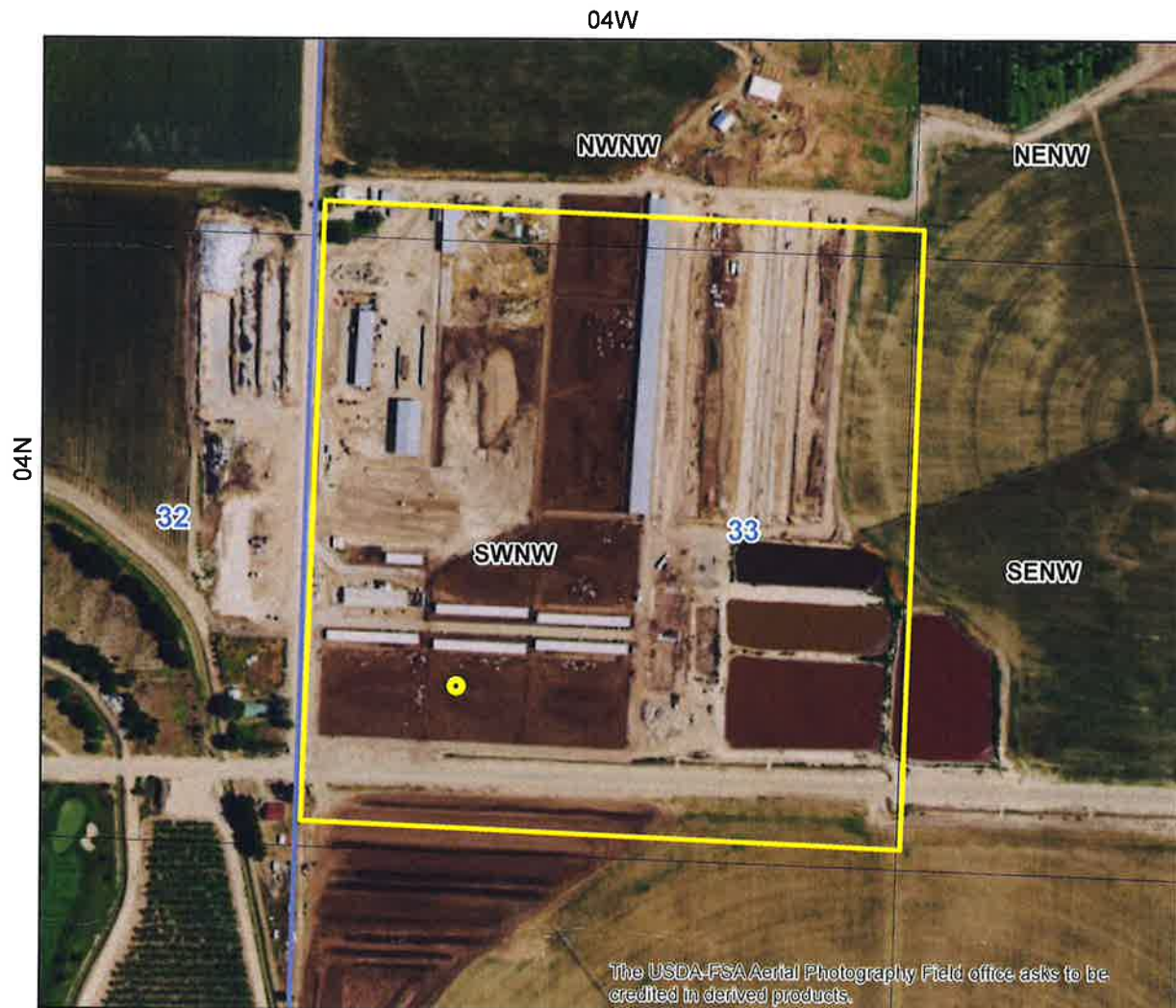
0 0.05 0.1 0.2 Miles








8 4 4 0 3

State of Idaho
Department of Water Resources
Attachment to Water Right License
63-28990

This map depicts the STOCKWATER 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 0.05 0.1 0.2 Miles



State of Idaho
Department of Water Resources
Attachment to Water Right License
63-31599

This map depicts the STOCKWATER 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 0.05 0.1 0.2 Miles





0003660734



STATE OF IDAHO
Office of the secretary of state, Lawrence Denney
ANNUAL REPORT
Idaho Secretary of State
PO Box 83720
Boise, ID 83720-0080
(208) 334-2301
Filing Fee: \$0.00

For Office Use Only

-FILED-

File #: 0003660734

Date Filed: 11/1/2019 1:53:38 PM

Entity Name and Mailing Address:

FRIENDS DAIRY LLC

The file number of this entity on the records of the Idaho Secretary of State is: 0000368325

Address

PO BOX 580
MARSING, ID 83639-0580

Entity Details:

Entity Status

Active-Existing

This entity is organized under the laws of:

IDAHO

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W119953

The registered agent on record is:

Registered Agent

NICOLAAS DERUYTER
Registered Agent
Physical Address
13027 SUNNYSLOPE RD
CALDWELL, ID 83607
Mailing Address

Limited Liability Company Managers and Members

Name	Title	Business Address
NICOLAAS JACOBUS DERUYTER	Member	P.O BOX 580 MARSING, ID 83639

The annual report must be signed by an authorized signer of the entity.

Nicolaas Jacobus DeRuyter11/01/2019

Sign Here

Date

Signer's Title: Member

B0393-4223 11/01/2019 1:53 PM Received by ID Secretary of State Lawrence Denney



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

October 27, 2020

FRIENDS DAIRY LLC
PO BOX 580
MARSING ID 83639

RE: Transfer No: 84403
Water Right No(s): 63-28989, 63-28990, 63-31599

Transfer Approval Notice

Dear Water Right Holder(s) (and other Interested Persons):

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

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

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

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

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

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,

A Lynn Evans

Lynne 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 October 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.: 84403

Water Right No(s): 63-28989, 63-28990, 63-31599

FRIENDS DAIRY LLC
PO BOX 580
MARSING ID 83639



Lynne Evans
Office Specialist II

MEMORANDUM

TO: Transfer No. 84403
FROM: Tyler Smith
DATE: 9/29/2020
RE: Evaluation of Application

Summary of Information Submitted

Friends Dairy LLC (Company) is a commercial dairy that operates one of its facilities in Greenleaf, ID. The company filed transfer no. 84403 to change the points of diversion for three separate stockwater and commercial water rights from multiple wells to a single existing well. This transfer was filed at the suggestion of WRA Tyler Smith during the field exam for water right 63-12347 that is also owned by the company when it was apparent that the water rights were not in compliance. The existence of the existing well and delivery system were discovered during the aforementioned water right field exam, and are reflected accurately in the transfer application.

Authority to File

The transfer was filed in the name of Friends Dairy LLC. The Company is the current water right holder for all three rights included in the transfer. The transfer was signed by Nicolaas Deruyter. An Idaho Secretary of State annual report for the company was included with the transfer and shows Nicolaas as the registered agent, and therefore he has the authority to sign on behalf of the company.

Water Right Validity

These rights are presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by department aerial imagery, landsat images, google earth images, or other evidence. Evidence of beneficial use does not need to be added to the file it is an IDWR product available to other staff.

Injury to Other Water Rights

None anticipated. The new well is already existing and in use without any disturbance to other water rights that the Department has been made aware of.

Enlargement of Use

Enlargement of use is not of concern. The diversion rate and annual volume for the group of rights will not change.

Local Public Interest

No information has been made available to suggest a conflict with the local public interest.

Beneficial Use/Conservation of Water Resources

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

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

Summary

Assuming other information not yet discovered does not contradict the above analysis, the application can be approved as reflected by the draft approval.