

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82915**

This is to certify that: **BAINBRIDGE OWNERS ASSOCIATION INC**
2929 W NAVIGATOR DR STE 400
MERIDIAN, ID 83642-7553

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>
63-161G	WR/DECREED	5/1/1866	0.570 cfs	N/A	N/A	99.4	BOISE RIVER
63-26699	WR/DECREED	4/30/1937	2.100 cfs	N/A	N/A	135.4	WASTE WATER
63-8775	WR/DECREED	5/13/1978	1.440 cfs	324.4 af	N/A	72.1	GROUND WATER

Purpose of Transfer (Changes Proposed)

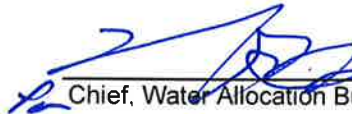
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-161G	NO	NO	YES	NO	NO	NO
63-26699	YES	NO	YES	NO	NO	NO
63-8775	YES	YES	YES	NO	NO	NO

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>
63-161G	63-161G	0.570 cfs	N/A	99.4	179.0	N/A	N/A	N/A	N/A	N/A
63-26699	63-34827	1.980 cfs	N/A	128.0	179.0	63-26699	0.120 cfs	N/A	N/A	7.5
63-8775	63-34826	0.790 cfs	177.7 af	39.5	179.0	63-8775	0.650 cfs	146.7 af	N/A	32.6
COMBINED TOTALS		2.640 cfs	N/A	132.0	179.0		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 8th day of October, 2020.



Chief, Water Allocation Bureau

SUPPORT DATA

Transfer No. 82915

IN FILE # 63-161G

WATER RIGHT NO. 63-161G

As Modified by Transfer No. 82915

In accordance with the approval of Transfer No. 82915, Water Right No. 63-161G is now described as follows:

Right Holder: BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN, ID 83642-7553

Priority Date: 5/1/1866

Source: BOISE RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From 03/01 **to** 11/15

Diversion Rate
0.570 cfs
0.570 cfs

LOCATION OF POINT(S) OF DIVERSION

BOISE RIVER L7 (SWNE) Sec 9 Twp 03N Rge 02E ADA 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	
04N	01W	27	4.0	37.0	34.0	34.0	30.0			40.0									179.0

Right Acre Limit: 99.4
POU Total Acres: 179.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 99.4 acres within the authorized place of use in a single irrigation season.
2. Rights 63-161G and 63-34827 when combined shall not exceed a total irrigation of 132 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. 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. 63.

Transfer No. 82915

WATER RIGHT NO. 63-161G
As Modified by Transfer No. 82915

CONDITIONS OF APPROVAL

6. Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoirs dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
7. This right originated as all or part of right no. 30 in the Stewart Decree and the historic Boise River Water Masters records.
8. The diversion and use of water described in Transfer 82915 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
9. This right does not grant any right-of-way or easement across the land of another.
10. This water is delivered via the Settlers Irrigation District canal system.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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.

WATER RIGHT NO. 63-8775**As Modified by Transfer No. 82915**

In accordance with the approval of Transfer No. 82915, Water Right No. 63-8775 is now described as follows:

Right Holder: BRAD JANICEK
C/O JANICEK PROPERTIES LLC
1284 S GOSLING WAY
EAGLE, ID 83616
And
LOU ANN JANICEK
C/O JANICEK PROPERTIES LLC
1284 S GOSLING WAY
EAGLE, ID 83616

Priority Date: 5/13/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.650 cfs	146.7 af
			0.650 cfs	146.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NENE Sec 27 Twp 04N Rge 01W ADA 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	
04N	01W	27	32.6																32.6

POU Total Acres: 32.6

CONDITIONS OF APPROVAL

1. 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.
2. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
3. Use of this right is combined with water from Settlers Irrigation District.

Transfer No. 82915

WATER RIGHT NO. 63-34826

As Modified by Transfer No. 82915

In accordance with the approval of Transfer No. 82915, Water Right No. 63-34826 is now described as follows:

Right Holder: BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN, ID 83642-7553

Priority Date: 5/13/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.790 cfs	177.7 af
			0.790 cfs	177.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNE Sec 27 Twp 04N Rge 01W ADA 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	
04N	01W	27	4.0	37.0	34.0	34.0	30.0			40.0									179.0
Right Acre Limit:			39.5																
POU Total Acres:			179.0																

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 39.5 acres within the authorized place of use in a single irrigation season.
2. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 178 af at the field headgate for the place of use.
4. 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.

WATER RIGHT NO. 63-34826

As Modified by Transfer No. 82915

CONDITIONS OF APPROVAL

5. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 2/16/2007.
7. The diversion and use of water described in Transfer 82915 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
8. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.

WATER RIGHT NO. 63-26699**As Modified by Transfer No. 82915**

In accordance with the approval of Transfer No. 82915, Water Right No. 63-26699 is now described as follows:

Right Holder: BRAD JANICEK
C/O JANICEK PROPERTIES LLC
1284 S GOSLING WAY
EAGLE, ID 83616
Or
LOU ANN JANICEK
C/O JANICEK PROPERTIES LLC
1284 S GOSLING WAY
EAGLE, ID 83616

Priority Date: 4/30/1937

Source: WASTE WATER

Tributary: BOISE RIVER

BENEFICIAL USE
IRRIGATION

<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
03/01	to 11/15	0.120 cfs
		0.120 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER	SWSWNW	Sec 26 Twp 04N Rge 01W ADA County
WASTE WATER	SWNWNE	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	NWSWNE	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	SENENW	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	NESENW	Sec 27 Twp 04N Rge 01W ADA 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	
04N	01W	27				7.5													7.5

POU Total Acres: 7.5

CONDITIONS OF APPROVAL

1. 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.
2. Use of this right is combined with water from Settlers Irrigation District.
3. This right when combined with Right No. 63-161G shall provide no more than .02 cfs per acre.

Transfer No. 82915

WATER RIGHT NO. 63-34827**As Modified by Transfer No. 82915**

In accordance with the approval of Transfer No. 82915, Water Right No. 63-34827 is now described as follows:

Right Holder: BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN, ID 83642-7553

Priority Date: 4/30/1937

Source: WASTE WATER

Tributary: BOISE RIVER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

1.980 cfs

1.980 cfs

LOCATION OF POINT(S) OF DIVERSION

WASTE WATER	SENENW	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	NWSWNE	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	SWSWNW	Sec 26 Twp 04N Rge 01W ADA County
WASTE WATER	SWNWNE	Sec 27 Twp 04N Rge 01W ADA County
WASTE WATER	NESENW	Sec 27 Twp 04N Rge 01W ADA 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	
04N	01W	27	4.0	37.0	34.0	34.0	30.0			40.0									179.0

Right Acre Limit: 128.0

POU Total Acres: 179.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 128 acres within the authorized place of use in a single irrigation season.
2. Rights 63-161G and 63-34827 when combined shall not exceed a total irrigation of 132 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 576 af at the field headgate for the place of use.
4. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.

WATER RIGHT NO. 63-34827

As Modified by Transfer No. 82915

CONDITIONS OF APPROVAL

5. 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. 63.
6. 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.
7. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
8. The diversion and use of water described in Transfer 82915 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
9. The waste water diverted under this right is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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 82915

63-161G, 63-34826 and 63-34827

This map depicts the IRRIGATION permissible 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.

01W



- 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

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 8, 2020

BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN ID 83642-7553

Re: Transfer No: 82915
Water Right No(s): 63-161G , 63-8775, 63-26699

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

The Transfer of Water Rights 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) 334-2190

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kensie Thorneycroft', written in a cursive style.

For: *Kensie Thorneycroft*
Nick Miller
Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 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: 82915

Water Right No(s): 63-161G , 63-8775, 63-26699

BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN ID 83642-7553

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

BRAD JANICEK
LOU ANN JANICEK
C/O JANICEK PROPERTIES LLC
1284 S GOSLING WAY
EAGLE ID 83616

SETTLERS IRRIGATION DISTRICT
C/O S BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE ID 83707-7985



Kensie Thorneycroft
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.



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: idwr.idaho.gov • Email: westerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 11, 2020

COPY

BAINBRIDGE OWNERS ASSOCIATION INC
2929 W NAVIGATOR DR STE 400
MERIDIAN ID 8342

RE: Application for Transfer 82915

Dear Parties:

The Department has prepared the attached draft transfer approval that incorporates standard conditions required by the Department, including conditions reflecting the settlement reached between Bainbridge Owners Association Inc. (Applicant) and Settlers Irrigation District (Protestant) in this contested matter. Note, the conditions of approval agreed to by the parties are similar in language and intent to standard Department conditions. The Department has included standard conditions in place of the stipulated conditions on the attached draft approval.

Please review the draft approval carefully. If you think the draft approval is not substantially in conformance with your settlement, please contact the Department within 14 days of the date of this letter with your concerns. The application has no remaining protests; therefore, if we do not hear from you, the Department will take the steps necessary to bring the application to final resolution. Note that you may file a petition for reconsideration within 14 days after the Department issues a preliminary order approving the transfer.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Patrick Kelly
Water Rights Supervisor

Enclosure

Cc: SPF Water Engineering via e-mail
Bainbridge Owners Association Inc.

MEMORANDUM

TO: Transfer No. 82915
FROM: Patrick Kelly
DATE: 9/8/2020
RE: Evaluation of Transfer Application

Summary of Information Submitted

Bainbridge Owners Association Inc originally filed transfer no. 82915 to create a 175 ac PPU that will serve new residential irrigation and change the point of diversion to drill a new well under water right 63-8775. An amended transfer was received as a result of a stipulation to resolve protest. The stipulation stated that Bainbridge's system would provide water to additional lots in the SENE as well as a church and private property immediately east of the sub. The transfer proposes to split ground water right 63-8775 and wastewater right 63-26699 outlined in the water right quit claim deed attachment. Boise River right 63-161G is included to reflect the updated POU, but does not propose changes to the POD or delivery through Settlers ditch systems.

The subdivision and new well site is located between N Black Cat Rd and N Ten Mile Rd just south of Chinden Rd in Meridian.

Lori Graves of SPF Water Engineering is the representative and can be reached at lgraves@spfwaterengineering.com or 208-383-4140.

Authority to File

Vinson Farms owns 63-161G, Brad and Lou Ann own rights 63-8775 and 63-26699. Brighton Corporation (ID SOS #: 130944) is the parent company to all development in the Bainbridge Subdivision and Bainbridge Owners Association Inc. (BOA). The application is filed in the name of (BOA) and signed by Jonathan Wardle. ID SOS recognizes Ms. Smith as a registered President of the company. Ownership changes are filed through the transfer application which includes warranty deeds to the land.

A quit-claim deed and split tree's are filed with the transfer application giving BOA split portions of 63-8775 and 63-26699 according to property ownership. 63-161G is not split since Brighton Corp owns all of the land within the POU.

Water Right Validity

63-8775 and 63-26699 are supplemental to 63-161G. All three were decreed in 2009. 2015 aerial imagery shows fully irrigated fields within the place of use before residential development began occurring. Concerns over validity are not present at this time.

Overlap Analysis

All rights relevant to the place of use are included in the transfer application. Settlers Irrigation District owns overlapping surface water rights and is aware of the transfer via protest. No other rights should be considered for this transfer.

Combined use analysis finds the following place of use for the three rights:

IRRIGATION within ADA County

[illegible]

The table above describes the specific acres prior to creating the permissible place of use. Acre limit conditions will be added to each right and a combined use limit of 132 acres will be added to 63-161G and 63-34827. Since these two rights overlap and are limited to 132 acres, and 63-34826 is a supplemental ground water right, the face of the transfer application will show a "Combined Total" of 2.64 cfs, based on 0.02 cfs/acre for 132 acres.

The new supplemental groundwater use for 63-34826 will have the legal description below. Plans to build out a total of 85 acres within 182 acre PPU were initially proposed. Through stipulated agreements and amendments to the transfer application, as well as a second groundwater application (63-34805), the project landed on 88.5 acres within a 179 acre PPU.

The table below outlines the supplemental groundwater rights Place of Use.

IRRIGATION within ADA County

WR #	Sec	NE				NW				SW				SE				Acre limit	Total acres
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
63-34826	27	4	37	34	34	30				40								39.5	179
63-34651	27	4	37	34	30	29				40								44	174
63-34805	27				4	1												none	5
Total:																		88.5	179

Injury to Other Water Rights

None anticipated. Through the pre-hearing conference process, the parties have agreed that surface water will remain the primary source of irrigation and that water delivered by Settlers Irrigation District will continue. The area is within the B63 Groundwater Restricted Area. Because the rights involved in the transfer carry a priority date prior to 2016 with that order was signed and considering the conditions of approval do not require the user to appropriate groundwater at a specific depth, restrictions to well construction seal depth will not be applied to the rights. However, the transfer was filed concurrently with App for Permit 63-34651 which proposes to add supplemental groundwater to the system. Such a permit would add well construction restrictions and the user should be aware.

Enlargement of Use

The new point of diversion change is proposed within less than half of a mile from the historic well and not considered an improvement to the source. Splits of the water rights that occurred are consistent with the total diversion of water authorized by the rights pre-transfer. Elements of all rights involved have been changed to reflect water usage totals recognized by decrees.

Local Public Interest

No information has been made available to suggest a conflict with 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 does not contradict the above analysis, the application can be approved as reflected by the draft approval.