

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83216**

This is to certify that: **THE NATURE CONSERVANCY**
116 N 1ST AVE
HAILEY, ID 83333-8411

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>
21-11192	WR/DECREED	4/1/1939	10.000 cfs	N/A	N/A	1066.4	HENRYS FORK
21-12906	WR/DECREED	11/25/1902	2.140 cfs	N/A	155.0	1066.4	HENRYS FORK
21-178	WR/DECREED	6/1/1912	2.000 cfs	N/A	N/A	683.9	TWIN CREEK
21-179	WR/DECREED	6/1/1914	2.000 cfs	N/A	N/A	683.9	TWIN CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
21-11192	NO	NO	YES	NO	NO	NO
21-12906	NO	NO	YES	NO	YES	YES
21-178	NO	YES	YES	NO	NO	NO
21-179	NO	NO	YES	NO	YES	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>
21-11192	21-11192	10.000 cfs	N/A	N/A	998.5	N/A	N/A	N/A	N/A	N/A
21-12906	21-12906	2.140 cfs	N/A	87.1	998.5	N/A	N/A	N/A	N/A	N/A
21-178	21-178	2.000 cfs	N/A	683.9	998.5	N/A	N/A	N/A	N/A	N/A
21-179	21-179	2.000 cfs	N/A	683.9	998.5	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		16.140 cfs	N/A	998.5	998.5		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 17th day of September, 2020.



Regional Manager

Transfer No. 83216

**Support Data
In File # 21-178**

WATER RIGHT NO. 21-178
As Modified by Transfer No. 83216

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		
14N	44E	7																		
14N	44E	18	X																	
14N	44E	18	X																	0
			L 3																	

CONDITIONS OF APPROVAL

1. Rights 21-178 and 21-179 when combined shall not exceed the irrigation of 683.9 acres.
2. Rights 21-178, 21-179, 21-11192, and 21-12906 when combined shall not exceed the irrigation of 998.5 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 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. 1.
5. 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).
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 21-179

As Modified by Transfer No. 83216

In accordance with the approval of Transfer No. 83216, Water Right No. 21-179 is now described as follows:

Right Holder: THE NATURE CONSERVANCY
116 N 1ST AVE
HAILEY, ID 83333-8411

Priority Date: 6/1/1914

Source: TWIN CREEK **Tributary:** HENRYS FORK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	05/01	to 10/31	2.000 cfs
STOCKWATER	01/01	to 12/31	0.230 cfs
			2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

TWIN CREEK L2 (NENWNE) Sec 1 Twp 14N Rge 43E FREMONT County
TWIN CREEK SENESE Sec 36 Twp 15N Rge 43E FREMONT County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE														
14N	43E	1	40.0	38.0	37.0	40.0	24.0	2.0	11.0	40.0	40.0				36.0	40.0	38.0	40.0	38.0	464.0
			L 1	L 2			L 3	L 4												
14N	43E	12	40.0																	40.0
14N	44E	6						34.0	34.0		34.0	34.0	34.0	40.0						210.0
								L 4	L 5				L 6	L 7						
14N	44E	7	19.0	40.0	22.0	22.0	4.0			.07	0.6		7.0	37.0	13.0	1.1	34.0	4.0	204.4	
													L 9		L 5		L 10	L 11		
14N	44E	7								0.3	0.4						0.7		1.4	
													L 4	L 6			L 6			
14N	44E	7								5.0	37.0						7.7		49.7	
										L 7	L 7						L 10			
14N	44E	18	1.0																1.0	
14N	44E	18	28																28	
			L 3																	

Right Acre Limit: 683.9
POU Total Acres: 998.5

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		
14N	43E	1	X	X	X	X	X	X	X	X	X				X	X	X	X	X	
			L 1	L 2			L 3	L 4												
14N	43E	12	X																	
14N	44E	6						X	X		X	X	X	X						
								L 4	L 5				L 6	L 7						
14N	44E	7	X	X	X	X	X			X	X		X	X	X	X	X	X	X	
													L 9		L 5		L 10	L 11	0	
14N	44E	7								X	X					X				

Transfer No. 83216

WATER RIGHT NO. 21-179
As Modified by Transfer No. 83216

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		
14N	44E	7																		
14N	44E	18	X																	
14N	44E	18	X																	0
			L 3																	

CONDITIONS OF APPROVAL

1. Rights 21-178 and 21-179 when combined shall not exceed the irrigation of 683.9 acres.
2. Rights 21-178, 21-179, 21-11192, and 21-12906 when combined shall not exceed the irrigation of 998.5 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 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. 1.
5. 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).
6. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
7. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 21-11192

As Modified by Transfer No. 83216

In accordance with the approval of Transfer No. 83216, Water Right No. 21-11192 is now described as follows:

Right Holder: THE NATURE CONSERVANCY
116 N 1ST AVE
HAILEY, ID 83333-8411

Priority Date: 4/1/1939

Source: HENRYS FORK **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	05/01	to 10/31	10.000 cfs
STOCKWATER	01/01	to 12/31	0.230 cfs
			10.000 cfs

LOCATION OF POINT(S) OF DIVERSION

HENRYS FORK NENESW Sec 36 Twp 15N Rge 43E FREMONT County
HENRYS FORK SENESW Sec 36 Twp 15N Rge 43E FREMONT County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE														
14N	43E	1	40.0	38.0	37.0	40.0	24.0	2.0	11.0	40.0	40.0				36.0	40.0	38.0	40.0	38.0	464.0
			L 1	L 2			L 3	L 4												
14N	43E	12	40.0																	40.0
14N	44E	6						34.0	34.0		34.0	34.0	34.0	40.0						210.0
								L 4	L 5			L 6	L 7							
14N	44E	7	19.0	40.0	22.0	22.0	4.0			0.7	0.6			7.0	37.0	13.0	1.1	34.0	4.0	204.4
												L 9			L 5		L 10	L 11		
14N	44E	7								0.3	0.4							0.7		1.4
										L 4	L 6							L 6		
14N	44E	7								5.0	37.0							7.7		49.7
										L 7	L 7							L 10		
14N	44E	18	1.0																	1.0
14N	44E	18	28																	28
			L 3																	

POU Total Acres: 998.5

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		
14N	43E	1	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
			L 1	L 2			L 3	L 4												
14N	43E	12	X																	
14N	44E	6						X	X		X	X	X	X						
								L 4	L 5			L 6	L 7							
14N	44E	7	X	X	X	X	X			X	X		X	X	X	X	X	X	X	X
													L 9		L 5		L 10	L 11		0
14N	44E	7								X	X					X				

Transfer No. 83216

WATER RIGHT NO. 21-11192
As Modified by Transfer No. 83216

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		
										L 4	L 6						L 6			
14N	44E	7								X	X						X			
										L 7	L 7						L 10			
14N	44E	18	X																	
																				0
14N	44E	18	X																	
			L 3																	

CONDITIONS OF APPROVAL

1. Rights 21-178, 21-179, 21-11192, and 21-12906 when combined shall not exceed the irrigation of 998.5 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
3. 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. 1.
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. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
6. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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. 21-12906

As Modified by Transfer No. 83216

In accordance with the approval of Transfer No. 83216, Water Right No. 21-12906 is now described as follows:

Right Holder: THE NATURE CONSERVANCY
116 N 1ST AVE
HAILEY, ID 83333-8411

Priority Date: 11/25/1902

Source: HENRYS FORK

Tributary: SNAKE RIVER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	05/01	to 10/31	1.200 cfs	
STOCKWATER	01/01	to 12/31	0.230 cfs	
WILDLIFE STORAGE	01/01	to 12/31		62.5 af
DIVERSION TO STORAGE	05/01	to 10/31	0.940 cfs	
			2.140 cfs	

LOCATION OF POINT(S) OF DIVERSION

HENRYS FORK NENESW Sec 36 Twp 15N Rge 43E FREMONT County
HENRYS FORK SENESW Sec 36 Twp 15N Rge 43E FREMONT County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE													
14N	43E	1	40.0	38.0	37.0	40.0	24.0	2.0	11.0	40.0	40.0			36.0	40.0	38.0	40.0	38.0	464.0
			L 1	L 2			L 3	L 4											
14N	43E	12	40.0																40.0
14N	44E	6						34.0	34.0		34.0	34.0	34.0	40.0					210.0
								L 4	L 5			L 6	L 7						
14N	44E	7	19.0	40.0	22.0	22.0	4.0			0.7	0.6		7.0	37.0	13.0	1.1	34.0	4.0	204.4
													L 9		L 5		L 10	L 11	
14N	44E	7								0.3	0.4						0.7		1.4
										L 4	L 6						L 6		
14N	44E	7								5.0	37.0						7.7		49.7
											L 7	L 7					L 10		
14N	44E	18	1.0																1.0
14N	44E	18	28																28
			L 3																

Right Acre Limit: 87.1
POU Total Acres: 998.5

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	
14N	43E	1	X	X	X	X	X	X	X	X	X			X	X	X	X	X	
			L 1	L 2			L 3	L 4											
14N	43E	12	X																
14N	44E	6						X	X		X	X	X	X					
								L 4	L 5			L 6	L 7						

Transfer No. 83216

WATER RIGHT NO. 21-12906
As Modified by Transfer No. 83216

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		
14N	44E	7	X	X	X	X	X					X	X			X	X	X	X	
														L 9		L 5		L 10	L 11	0
14N	44E	7										X	X					X		
												L 4	L 6					L 6		
14N	44E	7										X	X					X		
												L 7	L 7					L 10		
14N	44E	18	X																	
																				0
14N	44E	18	X																	
			L 3																	

PLACE OF USE: WILDLIFE STORAGE

Twp	Rng	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE														
14N	44E	7					X													

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 87.1 acres within the authorized place of use in a single irrigation season.
2. Rights 21-178, 21-179, 21-11192, and 21-12906 when combined shall not exceed the irrigation of 998.5 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
4. Right 21-12906 authorizes a total annual storage volume of 62.5 acre-feet, 37.2 acre-feet to be used for the initial filling or carryover storage of the pond and 25.3 acre-feet for the replacement of losses caused by seepage and evaporation.
5. The pond established by the storage of water under this right shall not exceed a total capacity of 37.2 acre-feet or a total surface area of 15 acres.
6. 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. 1.
7. 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).
8. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

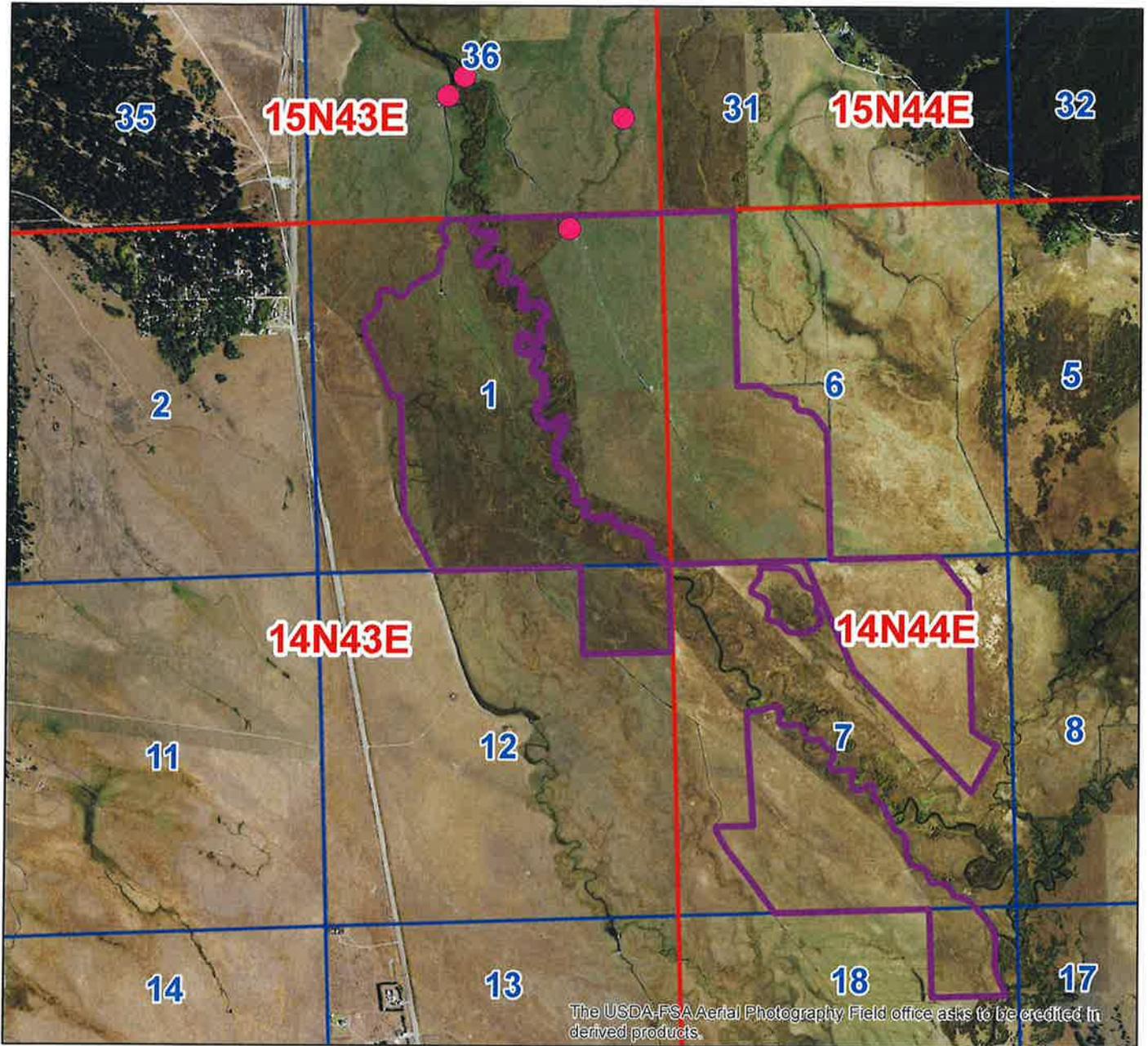
WATER RIGHT NO. 21-12906
As Modified by Transfer No. 83216

CONDITIONS OF APPROVAL

9. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
10. The diversion and use of water described in this right 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.
11. This right does not grant any right-of-way or easement across the land of another.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.

Attachment to Transfer Approval 83216

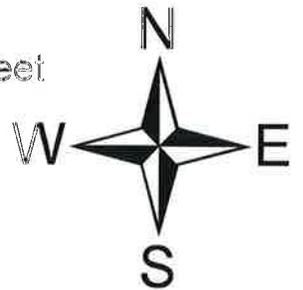
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- ▭ WR POU
- ▭ Township/Range
- ▭ Sections

0 1,875 3,750 7,500 Feet



Date: 9/17/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 17, 2020

THE NATURE CONSERVANCY
116 N 1ST AVE
HAILEY ID 83333-8411

Re: Transfer No: 83216
Water Right No(s): 21-178, 21-179, 21-11192, 21-12906

Transfer Approval Notice

Dear Water Right Holder:

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) 525-7161.

Sincerely,



Christina Henman
Administrative Assistant

Enclosure

CC:
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

MATTHEW WARD
447 PARK AVE
IDAHO FALLS ID 83402

FREMONT MADISON IRRIGATION DISTRICT
PO BOX 15
ST ANTHONY ID 83445

NORTH FORK RESERVOIR COMPANY
PO BOX 15
ST. ANTHONY ID 83445

FREMONT MADISON IRRIGATION DISTRICT
NORTH FORK RESERVOIR CO
C/O JERRY R RIGBY SEC
PO BOX 250
REXBURG ID 83440

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 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.: 83216
Water Right No(s): 21-178, 21-179, 21-11192, 21-12906**

**THE NATURE CONSERVANCY
116 N 1ST AVE
HAILEY ID 83333-8411**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
C/O KRISTIN MOORE
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552**

**MATTHEW WARD
447 PARK AVE
IDAHO FALLS ID 83402**

**FREMONT MADISON IRRIGATION DISTRICT
PO BOX 15
ST ANTHONY ID 83445**

**NORTH FORK RESERVOIR COMPANY
PO BOX 15
ST. ANTHONY ID 83445**

**FREMONT MADISON IRRIGATION DISTRICT
NORTH FORK RESERVOIR CO
C/O JERRY R RIGBY SEC
PO BOX 250
REXBURG ID 83440**



**Christina Henman
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.