

RECEIVED

JUL 01 2020
Incomplete
WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

84248

RECEIVED

JUL 23 2020
Complete
WATER RESOURCES
WESTERN REGIONMINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) Edward & Sherene VivierCheck whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1. Previously done
- ☐ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of Applicant(s) Edward R. / Sherene Vivier Phone 208-919-1026
Mailing address 1320 S. 14TH EAST Email Ed.Sherene@NSN.com

- 1/A
n/A
- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

n/A
Name of Representative _____ Phone _____
Mailing address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

[Signature]
Signature of Applicant or Authorized Representative

Edward R. Vivier
Print Name and Title if applicable

15 APR 20
Date

[Signature]
Signature of Applicant or Authorized Representative

Sherene J. Vivier
Print Name and Title if applicable

15 APR 20
Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part1A.2**.
3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

All water will be used for irrigation most via gtl system.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

B. DESCRIBE

DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

[illegible]

Total authorized under rights 610 cfs and/or 3.0 acre-feet.

2. Total amount of water proposed to be transferred or changed 0.10 cubic feet per second and/or 3.0 acre-feet per year.

3. Point(s) of Diversion:

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

[illegible]

4. Place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

[illegible]

84249

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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

I.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	61-12340	.010	irrigation	09/01 to 10/31	Groundwater
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights .610 cfs and/or 3.0 acre-feet.

2. Total amount of water proposed to be transferred or changed .010 cubic feet per second and/or 3.0 acre-feet per year.

3. Point(s) of Diversion:

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

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes		SE	NE		36	03S	06E	Elmore	Groundwater	D0082833

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03S	06E	36														2			2
Total Acres (for irrigation use)																			2

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Groundwater Well

- b. Who owns the property at the point(s) of diversion? Ed / Sherene Vivier
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

1/A

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? **If yes,** ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: No

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank? No
If yes, ☐ complete Attachment WSB.
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

None

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

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:



**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 61-12019

Current Owner: LADEAN F DENNING

208-484-7860

Priority Date: 4/20/1979

Origin: Water Right

Status: Water Supply Bank Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.12 CFS	44.1 AF
	<u>Total Diversion</u>	0.12 CFS	44.1 AF

Location of Point(s) of Diversion

GROUND WATER

ELMORE County

OLD
DIVERSION
PT.

L7(SE1/4SE1/4)

Sec. 1, Twp 02S, Rge 05E B.M.

Place of Use

IRRIGATION Within ELMORE County

T02S R05E S1	Lot 6	NESE	20.00	T02S R05E S1	Lot 7	SESE	20.00
Total Acres: 40							

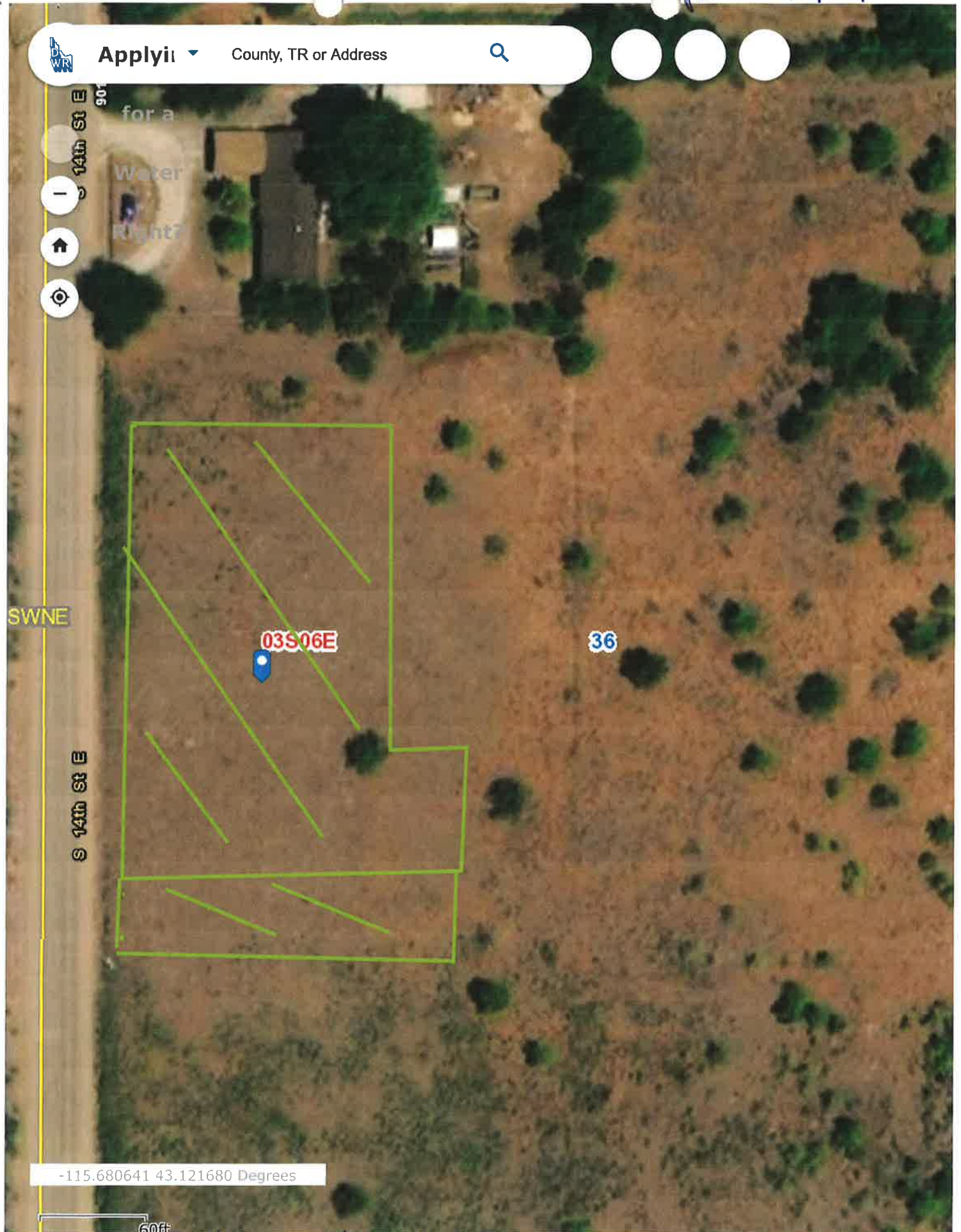
Conditions of Approval:

1. 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.
2. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 11 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
3. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

Decreed Date: 10/26/2000

84248

84248



New pt. of use $\frac{1}{2}$ ft. of diversion
84248

ATTCH # 7A

84248



Printed on 6/24/2019



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

September 11, 2020

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

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

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the MOUNTAIN HOME NEWS on 9/16/2020 and 9/23/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kensie Thorneycroft', is written over the typed name and title.

Kensie Thorneycroft
Administrative Assistant

Thorneycroft, Kensie

From: Thorneycroft, Kensie
Sent: Friday, September 11, 2020 9:57 AM
To: 'Legal Dept'
Subject: Elmore Legal Notice
Attachments: CoverLetter.docx; LegalNotice.docx

Follow Up Flag: Follow up
Flag Status: Completed

Good Morning Legal Clerk,

I am sending you the new legal notices, please send confirmation to my email.

Please see the attached ad for publication on 09/16/2020 and 09/23/2020.

Please confirm these are okay to publish as shown.

Kensie Thorneycroft
Administrative Assistant
IDWR Western Region
208-334-2190



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

September 11, 2020

LEGAL NOTICE DEPARTMENT
MOUNTAIN HOME NEWS
PO BOX 1330
MOUNTAIN HOME, ID 83647-1330

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

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/5/2020. Your cooperation is appreciated.

Sincerely,

Kensie Thorneycroft
Administrative Assistant

Enclosure(s)

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 84248

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

For additional information concerning the property location, contact Western Region office at (208)334-2190. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 10/5/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/16/2020 and 9/23/2020

Kaiser, Anna

From: Kaiser, Anna
Sent: Wednesday, September 2, 2020 11:47 AM
To: Bank
Subject: WSB- Transfer Application 84248
Attachments: Transfer App 84248.pdf

September 2, 2020

RE: Application for Transfer No. 84248

Good afternoon,

The Department received the attached Application for Transfer for water right 61-12340. The records show this water right was recently split from water right 61-12019, which is partially leased to the Water Supply Bank. The purpose of this transfer is to move the point of diversion and place of use approximately 12 miles SE.

Please let me know if you have any concerns with this proposal.

Thank you!
Anna

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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JUL 23 2020

WATER RESOURCES
WESTERN REGION

BRAD LITTLE
Governor

GARY SPACKMAN
Director

July 17, 2020

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

Re: Transfer Application Additional Information Request

Dear Applicants:

This office received your transfer application on July 1, 2020. The Idaho Department of Water Resources (Department) cannot begin processing your application until the following items are addressed:

1) Signature

- Since your application is filed in the name of Edward and Sherene Vivier, the Department requires a signature from Sherene Vivier.

2) Map verifying historical beneficial use location

- Before processing any transfer, the Department must be able to justify, with some confidence, that each water right involved in a transfer has achieved beneficial use within the past five years.

Your transfer proposes changes to water right 61-12340. Water right 61-12340 allows for 0.8 acres of irrigation within a 40-acre permissible place of use (ppu). It is unclear to the Department which 0.8 acres within the 40-acre ppu is historically irrigated by water right 61-12340. *Parent right Leased.*

With this letter, I enclosed a map outlining the current 40-acre ppu of water right 61-12340. Please mark the 0.8 acres historically irrigated by water right 61-12340. This will be the 0.8 acres of irrigated land you plan on drying up to allow for the new place of use proposed through your transfer application. *61-12019*

Please make the necessary changes to your application, and submit your updated application and necessary fees by mail or in person to me at the address listed below. If you have any questions please do not hesitate to call me at (208)-334-2190 or email me at anna.kaiser@idwr.idaho.gov.

You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be rejected without a timely written reply within the next thirty (30) days. Refunds are not issued for rejected applications.

Sincerely,

Anna Kaiser

Water Resource Agent

Idaho Dept. of Water Resources | Western Regional Office
2735 W Airport Way, Boise ID 83705

61-12340 split from 61-12019

*Thank you,
E. Kaiser*

Enclosures: Department Generated Map
Original Transfer Application



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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BRAD LITTLE
Governor

GARY SPACKMAN
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July 17, 2020

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1) Signature

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2) Map verifying historical beneficial use location

- Before processing any transfer, the Department must be able to justify, with some confidence, that each water right involved in a transfer has achieved beneficial use within the past five years.
- Your transfer proposes changes to water right 61-12340. Water right 61-12340 allows for 0.8 acres of irrigation within a 40-acre permissible place of use (ppu). It is unclear to the Department which 0.8 acres within the 40-acre ppu is historically irrigated by water right 61-12340.
- With this letter, I enclosed a map outlining the current 40-acre ppu of water right 61-12340. Please mark the 0.8 acres historically irrigated by water right 61-12340. This will be the 0.8 acres of irrigated land you plan on drying up to allow for the new place of use proposed through your transfer application.

Please make the necessary changes to your application, and submit your updated application and necessary fees by mail or in person to me at the address listed below. If you have any questions please do not hesitate to call me at (208)-334-2190 or email me at anna.kaiser@idwr.idaho.gov.

You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be rejected without a timely written reply within the next thirty (30) days. Refunds are not issued for rejected applications.

Sincerely,

Anna Kaiser

Water Resource Agent

Idaho Dept. of Water Resources | Western Regional Office
2735 W Airport Way, Boise ID 83705

COPY

Enclosures: Department Generated Map
Original Transfer Application