

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84184**

This is to certify that: **RSJ INVESTMENTS**  
14565 LAKE AVE  
NAMPA, ID 83686

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>
63-22189	WR/DECREED	5/19/1959	1.560 cfs	351.0 af	N/A	78.0	GROUND WATER

**Purpose of Transfer (Changes Proposed)**

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-22189	NO	NO	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>
63-22189	63-22189	1.560 cfs	351.0 af	78.0	116.0	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>1.560 cfs</b>	<b>351.0 af</b>	<b>78.0</b>	<b>116.0</b>		<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 04 day of September, 2020.

for *Patricia Kelly*  
Chief, Water Allocation Bureau

Transfer No. 84184

# **WATER RIGHT NO. 63-22189**

## **As Modified by Transfer No. 84184**

In accordance with the approval of Transfer No. 84184, Water Right No. 63-22189 is now described as follows:

**Right Holder:** RSJ INVESTMENTS  
14565 LAKE AVE  
NAMPA, ID 83686

**Priority Date:** 5/19/1959

**Source:** GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	1.560 cfs	351.0 af
			1.560 cfs	351.0 af

### **LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER                      SESW                      Sec 23 Twp 03N Rge 03W CANYON 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	
03N	03W	23									30.0			40.0		6.0	40.0		116.0

Right Acre Limit: 78.0

POU Total Acres: 116.0

### **CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 78 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 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 351 af at the field headgate for the place of use.
3. 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.
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.

Transfer No. 84184

**WATER RIGHT NO. 63-22189**

**As Modified by Transfer No. 84184**

**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 right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho  
Department of Water Resources  
**Attachment to Transfer No. 84184**  
63-22189

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



- Transfer POU (ppu)
- Transfer POD
- Townships
- PLS Sections
- Quarter Quarters

0 0.075 0.15 0.3 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](http://www.idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

September 4, 2020

RSJ INVESTMENTS  
14565 LAKE AVE  
NAMPA ID 83686

Re: Transfer No: 84184  
Water Right No(s): 63-22189

### 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.

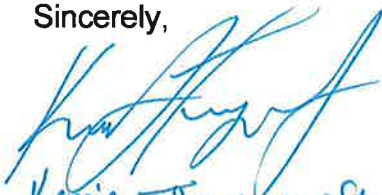
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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,

  
Kensi Thorneycroft  
For: Patrick Kelly  
Water Rights Supervisor

Enclosure

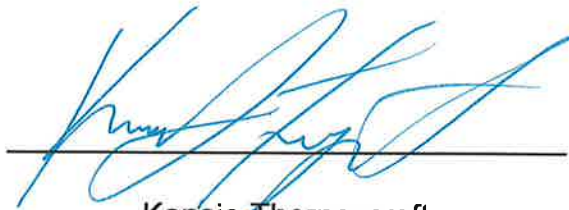
## CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

**Re: Transfer No: 84184**  
**Water Right No(s): 63-22189**

RSJ INVESTMENTS  
14565 LAKE AVE  
NAMPA ID 83686

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



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.

## MEMORANDUM

TO: Transfer No. 84184  
FROM: Anna Kaiser  
DATE: 8/31/2020  
RE: Evaluation of Application

---

Transfer 84184 proposes a 116-acre permissible place of use (ppu) to include the entire area of the planned residential subdivision. The right involved in transfer 84184 (water right 63-22189) will be used in combination with surface water from Wilder Irrigation District and Nampa & Meridian Irrigation District. Actual irrigation will not exceed the decreed 78 acres, 1.56 cfs, and 351 acre-feet.

The site is located in Canyon Country, about 1 mile east of the northern part of Lake Lowell and about 3.5 miles south west of I-84.

Contact person for the applicant is SPF Water Engineering, 300 E Mallard Dr, Ste. 350, Boise, ID 83706, (208).383.4140, mpape@spfwater.com

### Summary of Information Submitted

#### **Authority to File:**

RJS Investments has full authority to file transfer 84184.

Transfer 84184 was filed in the name of RSJ Investments and was signed by Richard Huff. Department records verify RSJ Investments is the most current owner of water right 63-22189. Idaho Secretary of State Records indicate J Richard Huff is a current registered agent of RSJ Investments.

The land within the proposed ppu is owned in part by RSJ Investments and in part by Lone Star Land LLC. With transfer 84184, RSJ Investments enclosed a letter from Lone Star Land signed by John Conter authorizing RSJ Investments to transfer the place of use (POU) of water right 63-22189 within Lone Star Land's parcel. Idaho Secretary of State Records indicate John Conter is a registered agent of Lone Star Land LLC.

#### **Water Right Validity:**

The partial decree for water rights no. was issued on 04/29/2009. The right is presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by the Department's aerial imagery.

**Injury to Other Water Rights:**

Transfer 84184 will not injure other water rights. The transfer proposes no point of diversion changes or additions. The transfer may improve local groundwater availability. The proposed ppu will increase the applicant's access to surface water irrigation, decreasing their current need for supplementary ground water from water right 63-22189.

**Enlargement of Use:**

Enlargement concerns must be addressed since transfer 84184 proposes to extend the POU boundary through the previously described ppu. The Department does not expect the transfer to result in enlargement of water right 63-22189. Upon approval, the water right will be conditioned to limit actual irrigation to 78 acres within the 116-acre ppu. Furthermore, water right 63-22189 will remain supplementary to Wilder Irrigation and Nampa & Meridian Irrigation surface water.

Transfer proposes no changes in diversion rate, annual volume, nature or period of use.

**Local Public Interest:**

This transfer proposes a change consistent with the local public interest.

Upon advertisement, letters requesting comment were sent to the water master of Water District 63, Nampa & Meridian Irrigation District, Wilder Irrigation District, and Lone Star Land LLC. The Department received comment only from Nampa & Meridian Irrigation ensuring the proposed transfer will not effect Nampa & Meridian Irrigation District's interests so long as the Department conditions water right 63-22189 to be "... used in combination with surface water."

Lack of comment from the other aforementioned entities implies the transfer proposal will not interfere with any entity's interests.

**Beneficial Use/Conservation of Water Resources:**

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

**Water Right Overlap**

Overlap was not considered as RSJ Investment does not own other irrigation rights within the intended ppu.

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

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

**Boise Office**

1101 W. River St., Ste. 110  
P.O. Box 7985  
Boise, Idaho 83707  
Tel. (208) 629-7447

**Challis Office**

1301 E. Main Ave.  
P.O. Box 36  
Challis, Idaho 83226  
Tel. (208) 879-4488

**Twin Falls Office**

236 River Vista Place  
Suite 301  
Twin Falls, Idaho 83301  
Tel. (208) 969-9585

Fax (all offices)  
(208) 629-7559



**SAWTOOTH LAW  
OFFICES, PLLC**

RECEIVED

AUG 05 2020

WATER RESOURCES  
WESTERN REGION

David P. Claiborne \*

S. Bryce Farris

Patxi Larrocea-Phillips

Evan T. Roth

Daniel V. Steenson

Matthew A. Sturzen

Katie L. Vandenberg

Andrew J. Waldera \*\*

James R. Bennetts (retired)

*Attorneys licensed in Idaho  
\* Also licensed in Washington  
\*\* Also licensed in Oregon*

Tuesday, August 04, 2020

Idaho Department of Water Resources  
Western Region Office  
2735 Airport Way  
Boise, ID 83705-5082

Re: Application for Transfer No. 84184 – RSJ Investments LLC

Dear Western Region Office:

Thank you for soliciting comments from Nampa & Meridian Irrigation District (“NMID”) concerning the above-referenced application. The application indicates the transferred water “will be used in combination with surface water” from NMID’s existing rights. Based on this representation NMID is not seeking to protest the transfer application, however, it requests the standard surface water remark language requiring the continued use of the primary surface water be included should the transfer application be approved by the Department. If this representation is not the case or the applicant disagrees with such a remark, then NMID will seek to intervene in the matter.

If you have any questions concerning this matter, please contact me.

Very truly yours,

S. Bryce Farris

SBF/dll

cc: NMID

RSJ Investments LLC

AUG 31 2020


WATER RESOURCES  
WESTERN REGION

29512 2025698

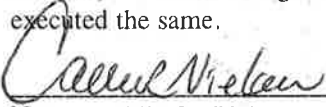
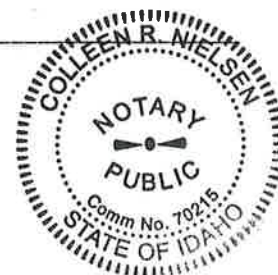
1 IDWR - WESTERN REGION

2735 AIRPORT WAY  
BOISE ID 83705AFFIDAVIT OF PUBLICATION  
STATE OF IDAHO) SS.  
County of Canyon and Ada )Sharon Jessen  
of the State of Idaho, being of first  
duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said Counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:  
07/16/2020 07/23/2020
  
Sharon Jessen  
STATE OF IDAHO)  
County of Canyon and Ada)

On this 25th day of August in the year of 2020 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

  
Notary Public for Idaho  
My Commission expires 06/28/2023


## LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-34925  
V & L RANCHES LLC  
7373 S MAPLE GROVE RD  
BOISE, ID 83709-7252  
Point of Diversion L3  
(SWSW) S32 T03N R01W  
CANYON County Source  
GROUND WATER  
Point of Diversion L3  
(NENW) S5 T02N R01W  
CANYON County Source  
INDIAN CREEK Tributary  
BOISE RIVER  
Use: IRRIGATION 03/15 to  
11/15 1.23 CFS  
Total Diversion: 1.23 CFS  
Date Filed: 06-08-2020  
Place Of Use: IRRIGATION  
T03N R01W S32 NESW,  
NWSW, SWSW, SESW  
Total Acres: 63  
Water bearing zone to be  
appropriated is from 0 to 80  
feet.

NOTICE OF PROPOSED  
CHANGE OF WATER RIGHT  
TRANSFER NO. 84184

RSJ INVESTMENTS,  
RICHARD HUFF 14565  
LAKE AVE, NAMPA, ID  
83686 has filed Application  
No. 84184 for changes to  
the following water rights  
within CANYON County(s):  
Right No(s). 63-22189; 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: The purpose of the transfer is to establish a 116-acre permissible place of use (ppu) to include the entire are of the planned residential subdivision. Irrigation within the proposed ppu will not exceed 78 acres, 1.56 cfs, and 351 acre-feet. The right involved in the transfer (WR 63-22189) will be used in combination with surface water from Wilder Irrigation District and Nampa & Meridian Irrigation District. Water will be used around the current place of use in

Canyon County, about 1 mile south west of the intersection of Orchard and Lake Ave, just east of Forest Canal. Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. 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 8/3/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,  
Director

July 16, 23, 2020 2025698