

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84094**

This is to certify that: **MICHAEL DAVISON**
160 N WYLIE RD
PRAIRIE, ID 83647

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>
63-34289	WR/DECREED	4/23/1963	7.740 cfs	1246.5 af	N/A	277.0	SMITH 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>
63-34289	NO	NO	YES	YES	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>
63-34289	63-34289	7.740 cfs	1246.5 af	N/A	277.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		7.740 cfs	1246.5 af	N/A	277.0		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 31 day of July, 2020.

for Patricia Wylie
Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34289**As Modified by Transfer No. 84094**

In accordance with the approval of Transfer No. 84094, Water Right No. 63-34289 is now described as follows:

Right Holder: MICHAEL DAVISON
160 N WYLIE RD
PRAIRIE, ID 83647

Priority Date: 4/23/1963

Source: SMITH CREEK

Tributary: SOUTH FORK BOISE RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 11/01

Diversion Rate

7.740 cfs

7.740 cfs

Diversion Volume

1246.5 af

1246.5 af

LOCATION OF POINT(S) OF DIVERSION

SMITH CREEK
SMITH CREEK

NENW
L3 (NWSW)

Sec 7 Twp 02N Rge 08E ELMORE County
Sec 7 Twp 02N Rge 08E ELMORE 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	
02N	07E	22									6.0		38.0	31.0				34.0	109.0
02N	07E	23											35.0						35.0
02N	07E	26						35.0	33.0		34.0					31.0			133.0

POU Total Acres: 277.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
2. 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).
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. 63B.
4. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 84094

WATER RIGHT NO. 63-34289

As Modified by Transfer No. 84094

CONDITIONS OF APPROVAL

5. Water is delivered through the Trinity Canal and Pierce Ditch.
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.

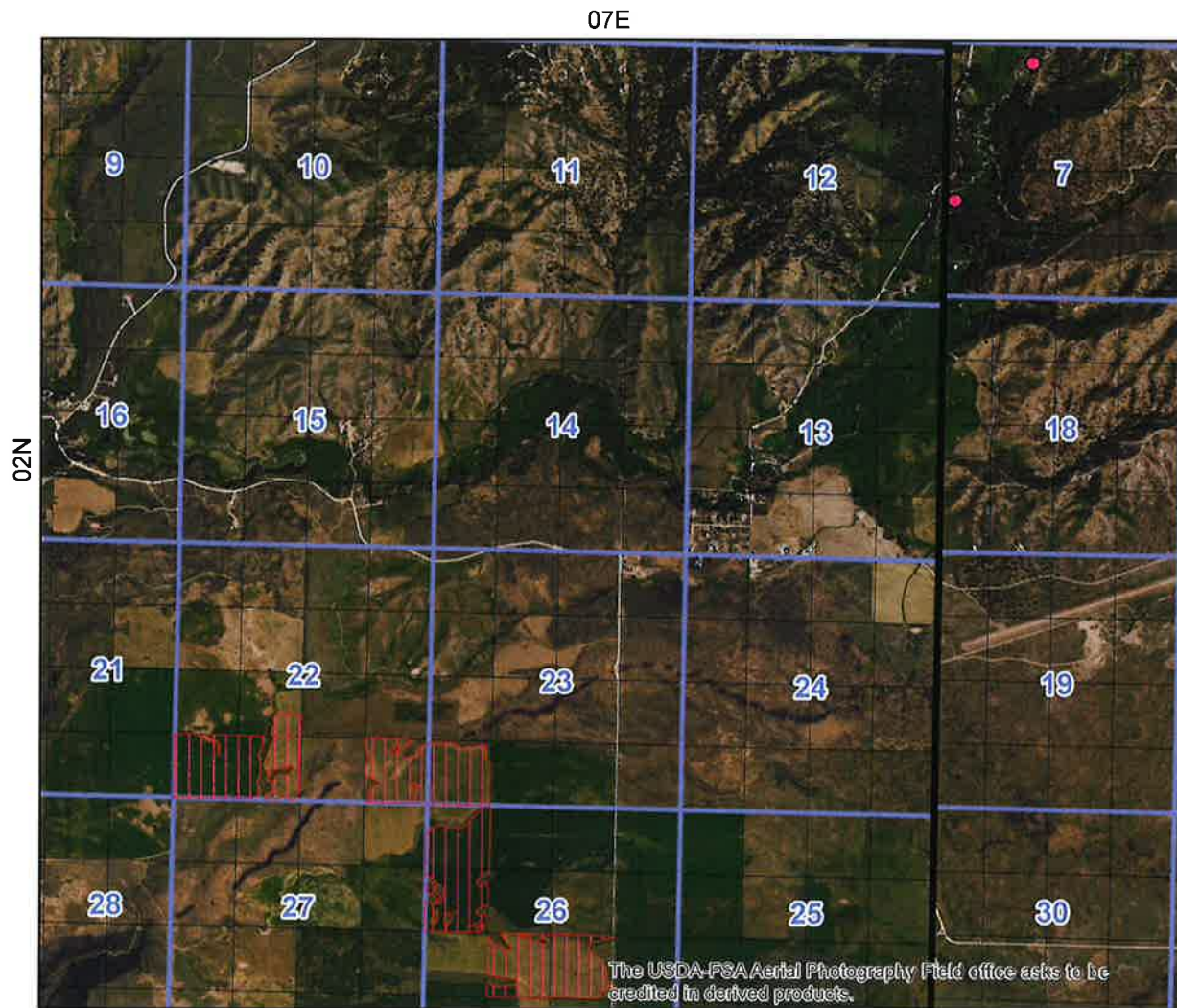


State of Idaho
Department of Water Resources

Attachment to Transfer of Water Right 84094

63-34289

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.



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

0 0.45 0.9 1.8 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

July 31, 2020

MICHAEL DAVISON
160 N WYLIE RD
PRAIRIE ID 83647

Re: Transfer No: 84094
Water Right No(s): 63-34289

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,



For: Kensi Thorneycroft
Patrick Kelly
Water Rights Supervisor

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 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: 84094
Water Right No(s): 63-34289

MICHAEL DAVISON
160 N WYLIE RD
PRAIRIE ID 83647



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. 84094
FROM: Tyler Smith
DATE: June 22, 2020
RE: Evaluation of Application

Summary of Information Submitted

Michael Davison is a farmer who owns property in Prairie, ID Elmore County. Transfer no. 84094 was filed in order to change the place of use and add a point of diversion. The change in place of use proposes to move irrigation acres to other fields within the same property boundary. The new point of diversion will be on the Pierce Ditch in order to provide water to the new place of use.

Authority to File

Michael Davison is the current water right owner, and the property owner at the proposed place of use, and therefore has the authority to file.

Water Right Validity

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

Injury to Other Water Rights

None anticipated. An opportunity to claim injury will be presented to water users through public advertisement.

Enlargement of Use

The primary purpose of the transfer is to move irrigated acres to another part of the applicants property. The right is limited to 0.02 cfs per acre, and therefore enlargement is not of concern.

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

RECEIVED AFFIDAVIT OF PUBLICATION

JUL 13 2020

WATER RESOURCES
WESTERN REGION

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 84094

MICHAEL DAVISON, 160 N WYLIE RD, PRAIRIE, ID 83647 has filed Application No. 84094 for changes to the following water rights within ELMORE County(s): Right No(s). 63-34289; 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: Michael Davison is a property owner in Prairie, ID Elmore County. Transfer no. 84094 was filed in order to change the place of use and add a point of diversion. The change in place of use proposes to move irrigation acres to other fields within the same property boundary. The new point of diversion will be on the Pierce Ditch in order to provide water to the new place of use.

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 7/20/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

First Publication:
July 1, 2020
Second Publication:
July 8, 2020

County of Elmore
State of Idaho

}ss.

I, **Joy Martinez**, do solemnly swear that I am the Legal Clerk of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 1 day of July, 2020, and the last publication having been made on the 8 day of July 2020; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Joy Martinez
Legal Clerk

Subscribed and sworn to me this 11th day of July 2020.

Brenda M. Fincher
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires **11-16-2022**.

