

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84011**

This is to certify that: CITY OF WEISER
55 W IDAHO ST
WEISER, ID 83672

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.

SUPPORT DATA

Summary of Water Rights Before the Proposed Changes

IN FILE # 3-7034

<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>
3-10198	WR/DECREED	1/15/1907	3.760 cfs	N/A	N/A	188.0	SNAKE RIVER
3-10264	WR/DECREED	1/15/1907	0.220 cfs	N/A	N/A	11.0	SNAKE RIVER
3-7034	WR/DECREED	5/3/1984	0.380 cfs	85.5 af	N/A	19.0	SNAKE RIVER

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>
3-10198	NO	NO	NO	YES	NO	NO
3-10264	NO	NO	NO	YES	NO	NO
3-7034	NO	NO	NO	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>
3-10198	3-10198	3.760 cfs	N/A	N/A	188.0	N/A	N/A	N/A	N/A	N/A
3-10264	3-10264	0.220 cfs	N/A	N/A	11.0	N/A	N/A	N/A	N/A	N/A
3-7034	3-7034	0.380 cfs	85.5 af	N/A	19.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		4.360 cfs	N/A	N/A	218.0		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 Kelly
Chief, Water Allocation Bureau

Transfer No. 84011

WATER RIGHT NO. 3-7034
As Modified by Transfer No. 84011

In accordance with the approval of Transfer No. 84011, Water Right No. 3-7034 is now described as follows:

Right Holder: CITY OF WEISER
 55 W IDAHO ST
 WEISER, ID 83672

Priority Date: 5/3/1984

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.380 cfs	85.5 af
			0.380 cfs	85.5 af

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER	NWNW	Sec 17 Twp 10N Rge 05W WASHINGTON County
SNAKE RIVER	L2 (SWSW)	Sec 17 Twp 10N Rge 05W WASHINGTON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	05W	17		5.0	14.0														19.0

POU Total Acres: 19.0

CONDITIONS OF APPROVAL

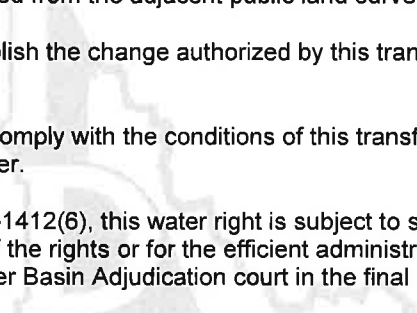
1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. Water shall not be diverted under this right unless the flow of the Snake River at the U.S. Geological stream gaging station at Weiser exceeds 4,750 cfs.
3. Rights 3-7034 and 67-4016 when combined shall not exceed a total annual maximum diversion volume of 85.5 af at the field headgate, and the irrigation of 19 acres.
4. Right Nos. 3-7034 and 3-10198 are limited to a total combined diversion rate of 1.30 cfs and to a total combined annual diversion volume of 432.0 AF from the point of diversion in T10N, R05W, S17, NWNW Lot 4.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 9/29/2009.

Transfer No. 84011

WATER RIGHT NO. 3-7034

As Modified by Transfer No. 84011

CONDITIONS OF APPROVAL

6. 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.
 7. The point of diversion for this water right is unsurveyed accretion land. The quarter-quarter description has been protracted from the adjacent public land survey.
 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. 3-10198
As Modified by Transfer No. 84011

In accordance with the approval of Transfer No. 84011, Water Right No. 3-10198 is now described as follows:

Right Holder: CITY OF WEISER
 55 WIDAHO ST
 WEISER, ID 83672

Priority Date: 1/15/1907

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
 IRRIGATION

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

Diversion Rate
 3.760 cfs
 3.760 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER	NWNW	Sec 17 Twp 10N Rge 05W WASHINGTON County
SNAKE RIVER	L2 (SWSW)	Sec 17 Twp 10N Rge 05W WASHINGTON County
SNAKE RIVER	L1 (NENE)	Sec 20 Twp 10N Rge 05W WASHINGTON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	05W	17		35.0	24.0	6.0	41.0			41.0					38.0	2.0		1.0	188.0
							L 4			L 3									

POU Total Acres: 188.0

CONDITIONS OF APPROVAL

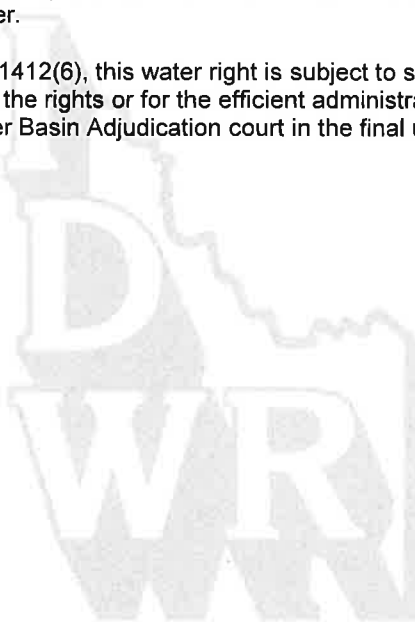
1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall 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.
3. The point of diversion for this water right is unsurveyed accretion land. The quarter-quarter description has been protracted from the adjacent public land survey.
4. Right Nos. 3-7034 and 3-10198 are limited to a total combined diversion rate of 1.30 cfs and to a total combined annual diversion volume of 432.0 AF from the point of diversion in T10N, R05W, S17, NWNW Lot 4.
5. The point of diversion in T10N, R05W, S17, NWNW is unsurveyed accretion land. The quarter-quarter description has been protracted from the adjacent public land survey.

Transfer No. 84011

WATER RIGHT NO. 3-10198
As Modified by Transfer No. 84011

CONDITIONS OF 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.



WATER RIGHT NO. 3-10264**As Modified by Transfer No. 84011**

In accordance with the approval of Transfer No. 84011, Water Right No. 3-10264 is now described as follows:

Right Holder: CITY OF WEISER
55 W IDAHO ST
WEISER, ID 83672

Priority Date: 1/15/1907

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE
IRRIGATION

From 03/01 **To** 11/15

Diversion Rate
0.220 cfs
0.220 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L2 (SWSW) Sec 17 Twp 10N Rge 05W WASHINGTON County
SNAKE RIVER L1 (NENE) Sec 20 Twp 10N Rge 05W WASHINGTON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10N	05W	17																11.0	11.0

POU Total Acres: 11.0

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 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. 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.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.

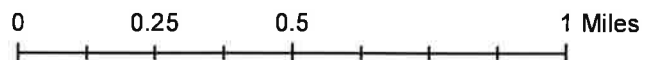
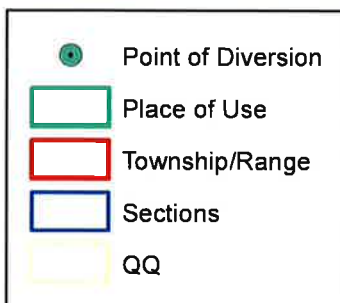
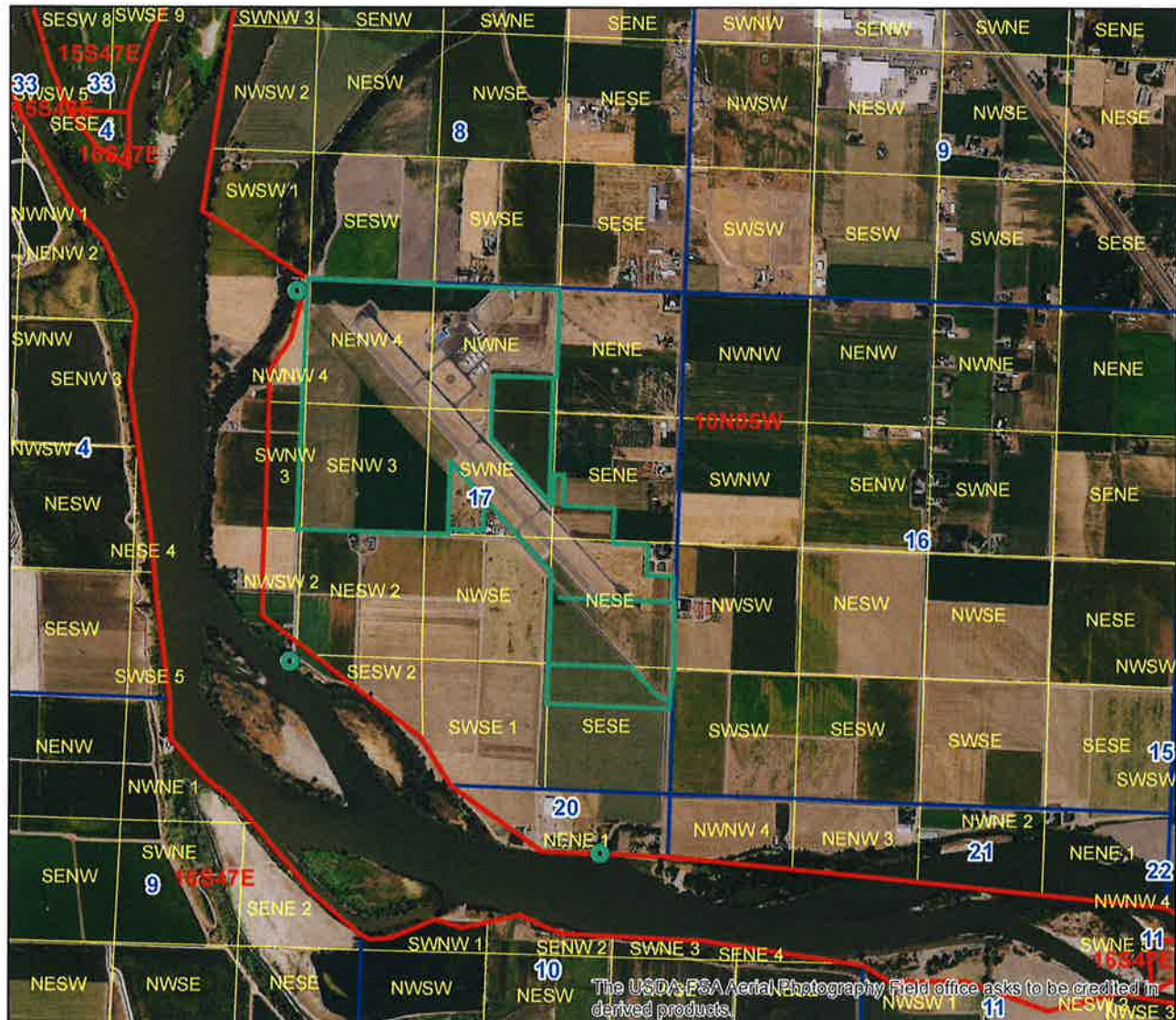
Transfer No. 84011

State of Idaho
Department of Water Resources

Attachment to Transfer No. 84011

Water Right(s): 3-7034, 3-10198, 3-10264

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.





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

CITY OF WEISER
55 W IDAHO ST
WEISER ID 83672

Re: Transfer No: 84011
Water Right No(s): 3-7034, 3-10198, 3-10264

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

The Transfer of Water Rights is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190

Sincerely,

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

For: *Kensie Thorneycroft*
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: 84011

Water Right No(s): 3-7034, 3-10198, 3-10264

CITY OF WEISER
55 W IDAHO ST
WEISER ID 83672

MCHUGH BROMLEY PLLC
ATTN CANDICE MCHUGH
380 S 4TH ST STE 103
BOISE ID 83702-7687



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. 84011 City of Weiser
FROM: Allen Bradbury
DATE: 06/10/2020
RE: Evaluation of Application

Summary of Application Proposal

Narrative: Transfer 84011 proposes to add a point of diversion for water rights 3-7034, 3-10198, and 3-10264 at approximately river mile 355.4 on the Snake River. These rights currently irrigate 19, 188, and 11 acre places-of-use respectively from the Snake River. The City of Weiser is proposing this change due to alterations in the meander path of the Snake River which affect the current point of diversion. The additional point of diversion will be approximately $\frac{3}{4}$ of a mile up river from the current point of diversion. Water will be used at the current place of use approximately 2.5 miles south of Weiser, Idaho in the area surround the Weiser Airport.

Location of Application Proposal: The proposed change is located approximately 3 miles south of Weiser, Idaho in Washington County about $\frac{1}{4}$ mile south of the intersection of Hansen and Airport Road.

Summary of Information Submitted

Authority to File: The application was filed in the name of the City of Weiser and signed by Randy Hibbard, Mayor on 3/17/2020. The application was prepared by Candice McHugh of McHugh-Bromley.

Water Right Validity/Historical Beneficial Use: Water rights 3-7034, 3-10198, and 3-10264 are irrigation rights from the Snake River decreed on 9/29/2010. Recent beneficial use within the previous, consecutive, five-year period was confirmed via aerial photography, and GIS ArcMap tools. No defense of forfeiture is needed.

Overlap Analysis: Overlap analysis show 3-7053, 3-10215, and 3-10216 in the same NWNW quarter-quarter, however GIS database points show distinctly different locations from the City of Weiser diversion. Water right 67-4016 is a groundwater right held by David Hansen that overlaps 15 acres of 3-7034 limited to irrigation of a combined total of 96 acres and a total combined annual diversion volume of 432 AF.

Injury to Other Water Rights: None anticipated, though there are other surface water diversions between the current POD and the new POD location. The shared diversion point for 3-7034 and 3-10198 is moving upstream and the shared diversion point for 3-10264 and the second POD for 3-10198 is moving downstream. In any case, this is the addition of a point of diversion. There is no information to suggest this is a gaining or losing reach of the river or that moving to this location will diminish the availability to other users.

Enlargement of Use: IDWR's Administrator's Memorandum 24 Transfer Processing Policies & Procedures section 5d, enlargement of use, elicits a concern with multiple points of diversion in item 10, enhancing water supply. Item 10 states, "an application for transfer, which proposes to change a point of diversion from a surface water source to a new location where the water available is greater or more reliable, such as moving from the tributary of a stream downstream to the mainstem of the stream, is presumed to enlarge the water right, unless the proposed change is subject to conditions limiting diversion of water at the proposed new point of diversion to times when water is available and in priority at the original point of diversion." The application states that "due to change in the Snake River meander lines and the location of the prior point of diversion, it is more feasible to add an additional point of diversion slightly up river from the old point of diversion."

There is no evidence that the new point of diversion will cause enlargement by enhancing supply.

Local Public Interest: There are no anticipated impacts to recreation, fish, or wildlife as a result of this transfer. The proposed transfer would comply with local and state government regulations, zoning ordinances, and policies. This transfer is compatible with the objectives and policies of the State Water Plan. The application was advertised and we did not receive any protests. For these reasons, this transfer should be considered in favor of local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho by continuing to irrigate agricultural lands.

Summary of Application Approval / Denial

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

Assuming no other information contradicts the above analysis, the application can be approved as reflected by the draft approval.

AFFIDAVIT OF PUBLICATION

RECEIVED

JUN 26 2020

STATE OF IDAHO)
County of Washington) ss.Sarah BolesWATER RESOURCES
WESTERN REGION
, being duly sworn,

deposes and says:

That she is the Clerk of
THE WEISER SIGNAL AMERICAN, a weekly newspaper
published at Weiser, in the County of Washington and State of
Idaho; that said paper has been and is in general circulation in
the county aforesaid, and in the vicinity of Weiser; that the ad-
vertisement, a copy of which is attached hereto, was published in

said newspaper once a week for two consecutive weeks in
the regular and entire issue of said paper during the period and
time of publication, and was published in the newspaper proper
and not in a supplement; that said paper has been established
and regularly published for more than seventy-eight consecutive
weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

June 17, 2020

and ending

with the issue of June 24, 2020Sarah BolesFees, \$ 116.15Subscribed and sworn to before me this 24date of June 2020Judith Parsons
Notary Public, residing at Weiser, Idaho.My commission expires 2-12-26

JUDITH PARSONS
COMMISSION NO. 15747
NOTARY PUBLIC
STATE OF IDAHO

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 84011 OK BY 7/7/2020

CITY OF WEISER, 55 W IDAHO ST, WEISER, ID 83672
has filed Application No. 84011 for changes to the following
water rights within WASHINGTON County(s): Right No(s).
3-10198, 3-10264, 3-7034; to see a full description of these
rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The pur-
pose of the transfer is to change a portion of the above rights
as follows: This transfer proposes to add a point of diversion
for water rights 3-7034, 3-10198, and 3-10264 which cur-
rently irrigate 19, 188, and 11 acre places-of-use respectively
from the Snake River. The additional point of diversion will
be approximately ¼ of a mile up river from the current point
of diversion for the City of Weiser. Water will be used at the
current place of use approximately 2.5 miles south of Weiser,
Idaho in Washington County near the intersection of Hansen
and Airport Road.

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
7/6/2020. The protestant must also send a copy of the protest
to the applicant.

GARY SPACKMAN, Director
Published on 6/17/2020 and 6/24/2020

25-2S