

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84026**

This is to certify that: **AMANDA G RUFFNER AND
MIKE RUFFNER
30 PYLE CREEK RD
GARDEN VALLEY, ID 83622**

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>
65-23807	WR/DECREED	5/28/1951	0.010 cfs	N/A	N/A	1.3	MIDDLE FORK PAYETTE 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>
65-23807	NO	YES	NO	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>
65-23807	65-23807	0.010 cfs	N/A	N/A	1.3	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.010 cfs	N/A	N/A	1.3		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 28 day of July, 2020.

for *Patricia Miller*
Chief, Water Allocation Bureau

WATER RIGHT NO. 65-23807
As Modified by Transfer No. 84026

In accordance with the approval of Transfer No. 84026, Water Right No. 65-23807 is now described as follows:

Right Holder: MICHAEL J RUFFNER And
 AMANDA G RUFFNER
 30 PYLE CREEK RD
 GARDEN VALLEY, ID 83622

Priority Date: 5/28/1951

Source: MIDDLE FORK PAYETTE RIVER **Tributary:** PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 11/01	0.010 cfs
			0.010 cfs

LOCATION OF POINT(S) OF DIVERSION

MIDDLE FORK PAYETTE RIVER NENE Sec 34 Twp 10N Rge 04E BOISE 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	
10N	04E	34	1.3																1.3

POU Total Acres: 1.3

CONDITIONS OF APPROVAL

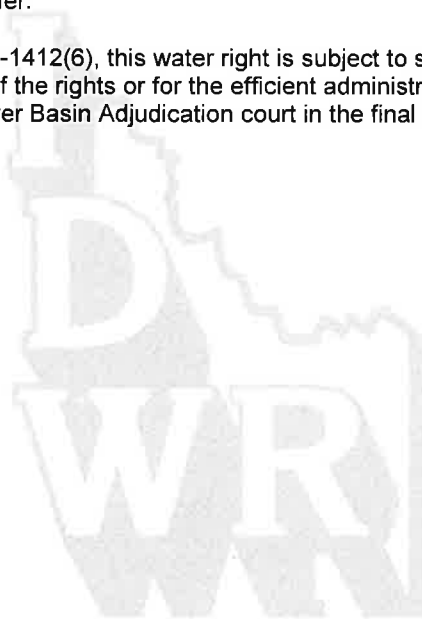
1. Place of use is located within Lot 2, Blk. 13 Middlefork Meadows Subdivision.
2. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
3. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
5. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

Transfer No. 84026

WATER RIGHT NO. 65-23807
As Modified by Transfer No. 84026

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.

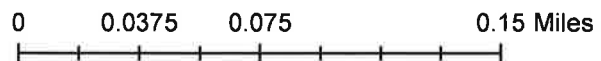
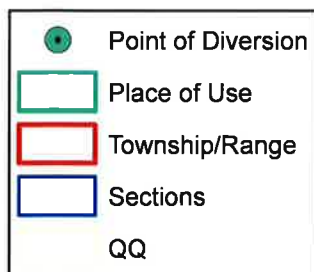


State of Idaho
Department of Water Resources

Attachment to Transfer No. 84026

Water Right(s): 65-23807

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 28, 2020

MIKE RUFFNER
AMANDA G RUFFNER
30 PYLE CREEK RD
GARDEN VALLEY ID 83622

Re: Transfer No: 84026
Water Right No(s): 65-23807

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.

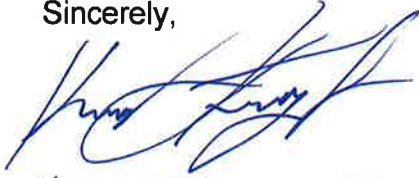
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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 28, 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: 84026
Water Right No(s): 65-23807

MIKE RUFFNER
AMANDA G RUFFNER
MICHAEL J RUFFNER
30 PYLE CREEK RD
GARDEN VALLEY ID 83622



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. 84026
FROM: Allen Bradbury
DATE: 05/28/2020
RE: Evaluation of Application

Summary of Application Proposal

Narrative: Transfer 84026 proposes to move the point of diversion for water rights 65-23807 approximately 0.5 miles upstream on the Middle Fork Payette River. The new point of diversion will continue to pump directly from the river irrigating 1.4 acres. Water will be used at the current place of use approximately 3.5 miles north of Crouch, Idaho in Boise County near the end of Pyle Creek Road.

Location of Application Proposal: The proposed change is located approximately .5 miles north of Crouch, Idaho in Boise County near the end of Pyle Creek Road.

Summary of Information Submitted

Authority to File: The application was filed in the name of Mike Ruffner residing at 30 Pyle Creek Road, Garden Valley, ID 83622. Water right 65-23807 was found to be in the name of Michel J. Ruffner and Amanda G. Ruffner with an address list as 1326 E Prairie View Dr, Eagle, ID. Initially, the application was signed only by Mike Ruffner. On May 10, 2020, a signature page was received with both signatures. Tax parcel information obtained by the Department and dated 10/17/2019 show the property, Block 2, Lot 13 of Middlefork Meadows Subdivision, jointly owned by the applicants. Both the proposed POD and the current POU are located on this property.

Water Right Validity/Historical Beneficial Use: Water right 65-23807 is an irrigation right from the Middle Fork Payette River decreed on 11/3/2000. Aerial imagery does not indicate evidence of irrigation at the place of use. Landsat, and Sentinel data are inconclusive due to the size of the parcel. Early Landsat images from 2000 seem to clearly indicate a lack of irrigation. However, Sentinel data retrieved for 2019 seems to indicate changes. Google Earth imagery for 2018 clearly shows the new construction within the parcel. A letter was sent to the applicants on June 3, 2020 requesting information regarding the potential forfeiture of the water right. An email with an attached map received on July 10, 2020, depicts sprinkler lines and rotary sprinkler locations on the property overlaid on the 2018 Google Earth imagery.

Overlap Analysis: Overlap analysis in GIS show water rights 6513002 and 13335 as overlapping, however on closer scrutiny of the backfile these are clearly separate parcels sharing the same quarter-quarter.

Injury to Other Water Rights: None anticipated, though there are other surface water diversions between the current POD and the new POD location. There is no information to suggest this is a gaining or losing reach of the river.

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."

There is no evidence that the new point of diversion will cause enlargement by enhancing supply, since there is no evidence of limited flow in this section of river.

Local Public Interest: No issues were identified. It is within the local public interest to allow private properties to develop their property and use their water rights to the fullest extent which in turn benefits the public at large. It is within the local public interest to allow the change in POD.

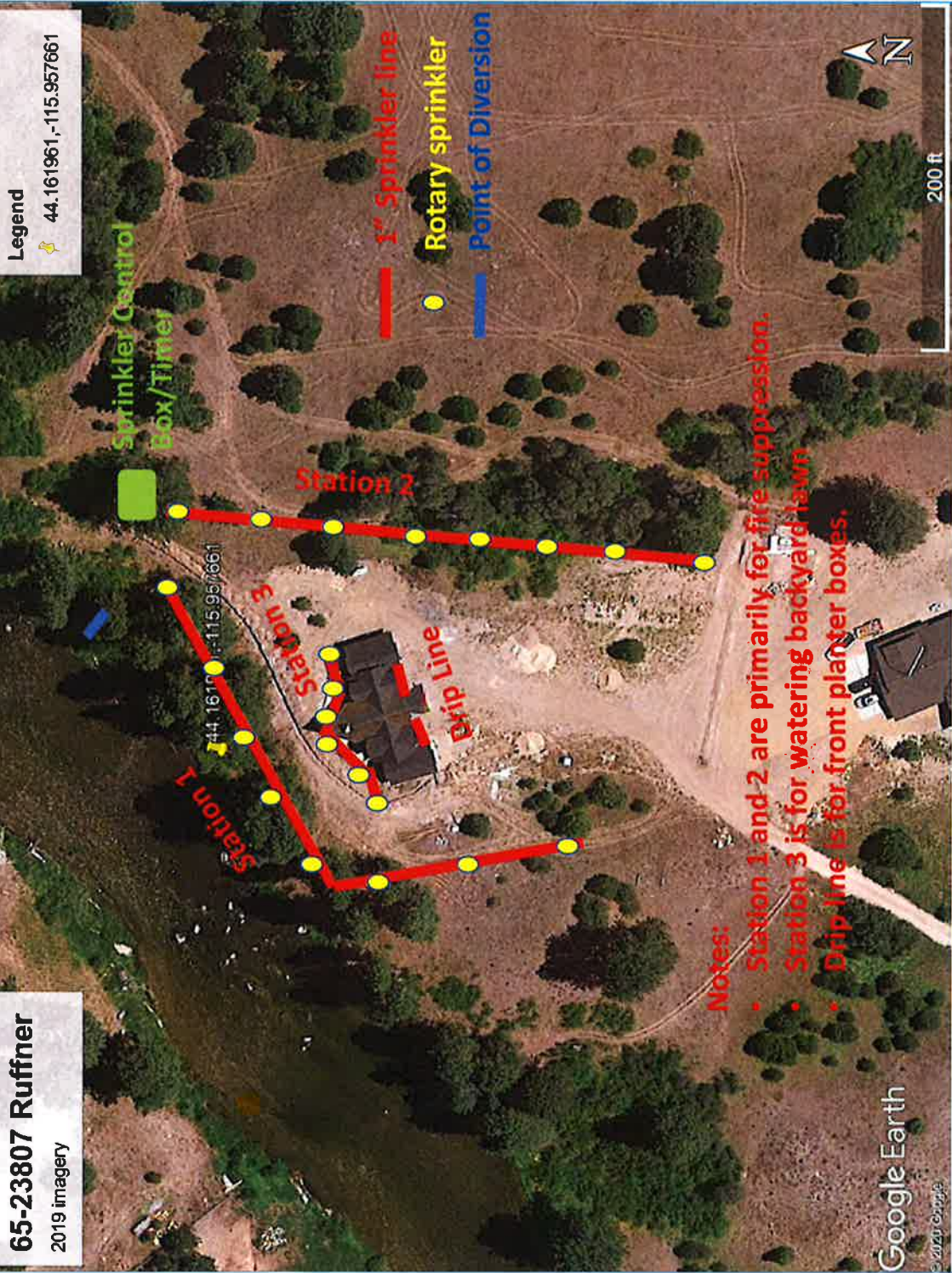
Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho by continuing to irrigate agricultural lands.

Summary of Application Approval / Denial

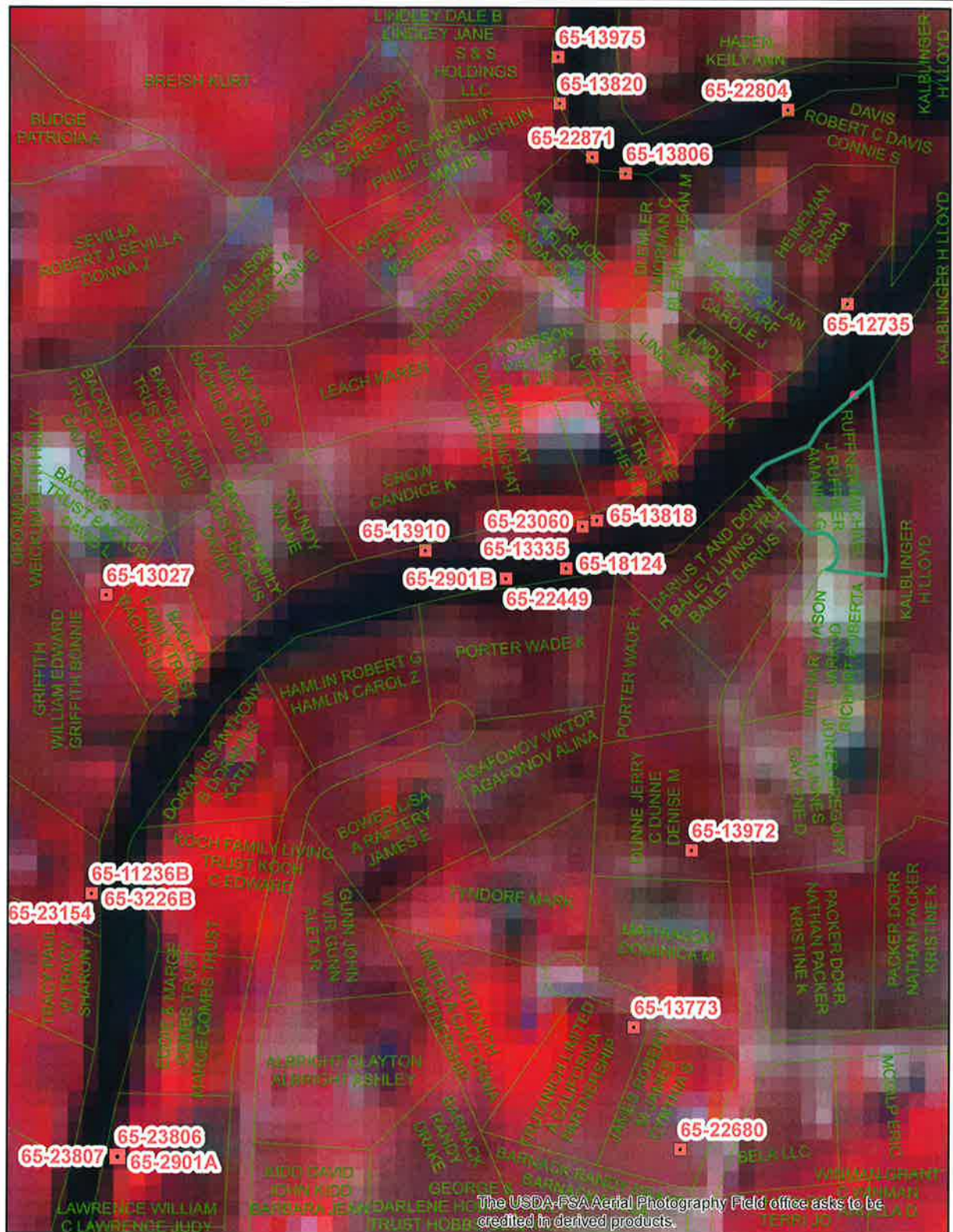
The application is consistent with criteria of I. C. § 42-222 and should be processed.

65-23807 Ruffner

2019 imagery



65-23807 Ruffner



Legend

- 65-23807_POD
- 65-23807_POU


0 0.09 0.18 Miles

The USDA-PSA Aerial Photography Field office asks to be credited in derived products.

Idaho Department of Water Resources


**T10N R04E
S34 & S35**

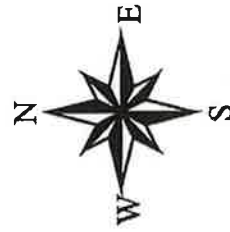
Owner(s) Bailey
Prepared by:
Ron Howerton
Date: 17 July 00

 Place of use

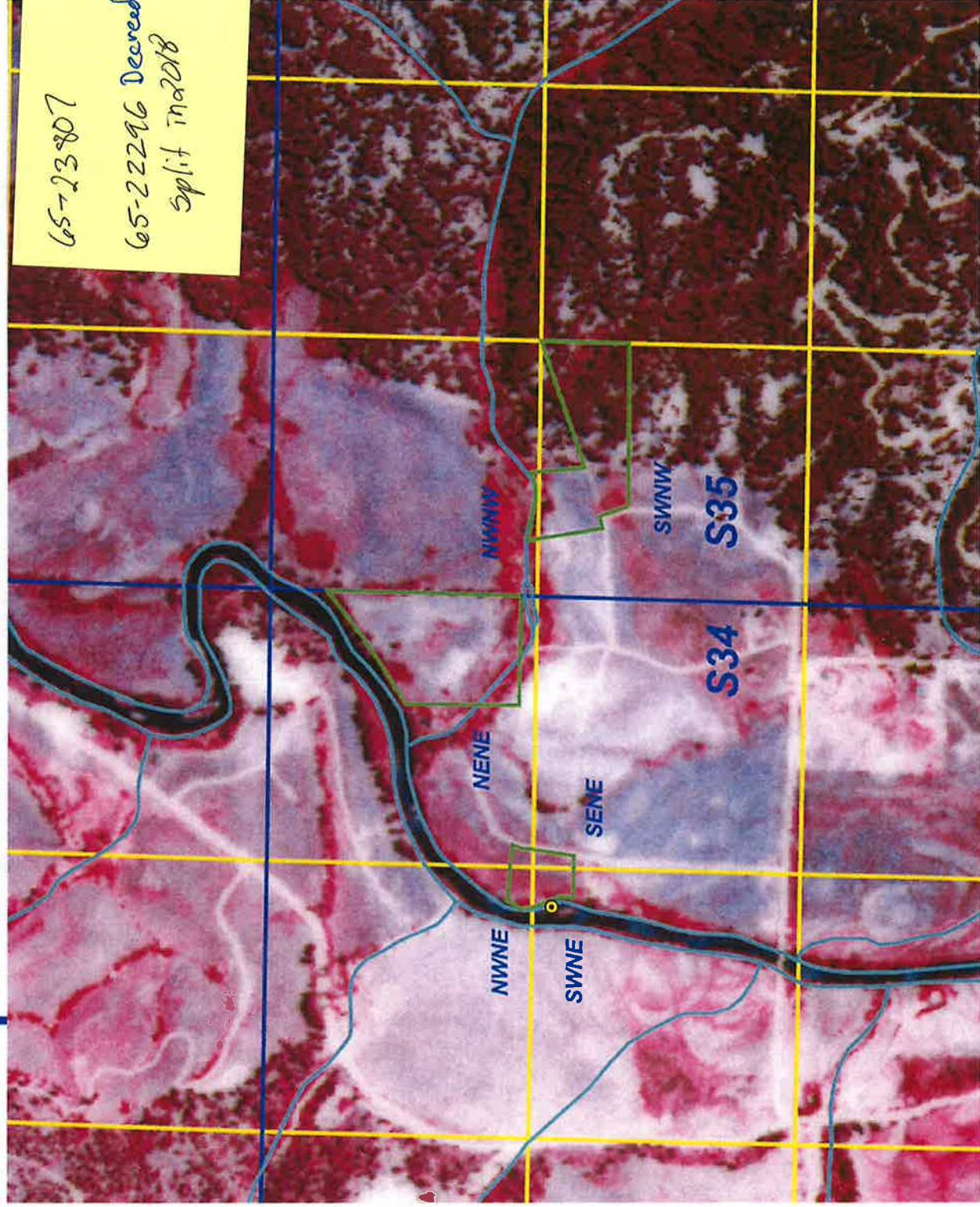
 POD

 SECTION LINES

 1/4 1/4 LINES



1987 NAPP



65-23807

65-22296 Deeded
Split in 2018



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

June 24, 2020

MICHAEL J RUFFNER
30 PYLE CREEK RD
GARDEN VALLEY, ID 83622

COPY

RE: Transfer Application #84026

Dear Mr. Ruffner,

I am writing to you today in regards to your Application for Transfer of a Water Right no. 84026. The Idaho Department of Water Resources (Department) reviewed this application, including a review of your place of use (POU). The Department has done a forfeiture review of this application and found the following information:

- Water right 65-23807 authorizes 0.01 cfs, for the irrigation of 1.3 acres. Review of historical imagery does not indicate any evidence of irrigation.

Idaho Code §42-222(2) states in part: All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223. Circumstances outlined in §42-223 are attached to this letter. Please provide any defense to forfeiture that would cause the Department not to reject your application.

Please submit the requested information for the application to be processed. 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 voided or approved with partial forfeiture without a timely written reply within the next **thirty (30) days**. I can be reached by phone at 208-334-2190 or by email at allen.bradbury@idwr.idaho.gov for any questions you might have. Thank you for your time and for your attention to these matters.

Respectfully,

Allen Bradbury
Water Resource Agent, Sr.
Idaho Dept. of Water Resources – Western

Attachment: Idaho Code §42-223

The Idaho World

P.O. Box 220
Idaho City, ID 83631
(208) 202-9288

State of Idaho)
County of Boise)

Eileen Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with May 6, 2020 and ending with the issue of May 13, 2020.

Eileen L. Capson

State of Idaho)
County of Boise)

On this 21st day of May in the year 2020, before me, a notary public, personally appeared Eileen Capson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Kristi Coffelt

Notary Public for Idaho

Residing at Idaho City, Idaho

Commission Expires 10/4/21

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 84026

AMANDA G RUFFNER, 1326 E PRAIRIE VIEW DR, EAGLE, ID 83616-7026; MIKE RUFFNER, 30 PYLE CREEK RD, GARDEN VALLEY, ID 83622 has filed Application No. 84026 for changes to the following water rights within BOISE County(s): Right No(s). 65-23807; 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: This transfer proposes to change the point of diversion for water right 65-23807 which currently irrigates a 1.4 acre parcel from the Middle Fork Payette River. The new point of diversion will use a 1.5 hp motor pumping directly from the river. Water will be used at the current place of use approximately 3.5 miles north of Crouch, Idaho in Boise County near the end of Pyle Creek 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 5/26/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Idaho World on 5/6/2020 and 5/13/2020.

RECEIVED

MAY 22 2020

WATER RESOURCES
WESTERN REGION

