

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84007**

This is to certify that:

ALLEN BODENHAMER AND  
VIRGINIA BODENHAMER  
22 S BARRACKS LN  
SALMON, ID 83467-5406  
AND  
EAGLE VALLEY RANCH LLC  
446 BOHANNON CREEK RD  
SALMON, ID 83467-5045  
AND  
LOWELL CERISE  
56 WHITING RD  
SALMON, ID 83467-5276  
AND  
STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE, ID 83707-0025

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>
74-15609	WR/DECREED	6/1/1880	0.110 cfs	N/A	3.5	173.8	LEMHI RIVER
74-15610	WR/DECREED	6/1/1880	4.260 cfs	N/A	142.1	173.8	LEMHI RIVER
74-15612	WR/DECREED	6/1/1880	4.945 cfs	N/A	164.6	191.8	LEMHI RIVER
74-1684	WR/DECREED	4/1/1961	0.800 cfs	N/A	N/A	N/A	LEMHI RIVER
74-4005B	WR/DECREED	4/20/1910	0.390 cfs	N/A	N/A	13.0	LEMHI RIVER
74-4005C	WR/DECREED	4/20/1966	0.230 cfs	N/A	N/A	7.0	LEMHI RIVER
74-4005D	WR/DECREED	4/20/1878	0.270 cfs	N/A	N/A	9.0	LEMHI RIVER
74-4005E	WR/DECREED	4/20/1878	6.750 cfs	N/A	N/A	225.0	LEMHI RIVER
74-746A	WR/DECREED	6/1/1880	0.254 cfs	N/A	13.4	173.8	LEMHI RIVER
74-746B	WR/DECREED	6/1/1880	0.370 cfs	N/A	14.3	173.8	LEMHI RIVER
74-746E	WR/DECREED	6/1/1880	13.500 cfs	N/A	N/A	450.5	LEMHI 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>
74-15609	NO	YES	NO	NO	NO	NO
74-15610	NO	YES	NO	NO	NO	NO
74-15612	NO	YES	NO	NO	NO	NO
74-1684	NO	YES	NO	NO	NO	NO

Transfer No. 84007

**Support Data  
In File # 74-746A**

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 84007**

**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>
74-4005B	NO	YES	NO	NO	NO	NO
74-4005C	NO	YES	NO	NO	NO	NO
74-4005D	NO	YES	NO	NO	NO	NO
74-4005E	NO	YES	NO	NO	NO	NO
74-746A	NO	YES	NO	NO	NO	NO
74-746B	NO	YES	NO	NO	NO	NO
74-746E	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>
74-15609	74-15609	0.110 cfs	N/A	3.5	173.8	N/A	N/A	N/A	N/A	N/A
74-15610	74-15610	4.260 cfs	N/A	142.1	173.8	N/A	N/A	N/A	N/A	N/A
74-15612	74-15612	4.950 cfs	N/A	164.6	191.8	N/A	N/A	N/A	N/A	N/A
74-1684	74-1684	0.800 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
74-4005B	74-4005B	0.390 cfs	N/A	N/A	13.0	N/A	N/A	N/A	N/A	N/A
74-4005C	74-4005C	0.230 cfs	N/A	N/A	7.4	N/A	N/A	N/A	N/A	N/A
74-4005D	74-4005D	0.270 cfs	N/A	N/A	9.0	N/A	N/A	N/A	N/A	N/A
74-4005E	74-4005E	6.750 cfs	N/A	N/A	224.8	N/A	N/A	N/A	N/A	N/A
74-746A	74-746A	0.250 cfs	N/A	13.4	173.8	N/A	N/A	N/A	N/A	N/A
74-746B	74-746B	0.370 cfs	N/A	14.3	173.8	N/A	N/A	N/A	N/A	N/A
74-746E	74-746E	13.500 cfs	N/A	N/A	450.5	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>31.880 cfs</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</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 20<sup>th</sup> day of July, 2020.



Regional Manager

**Support Data  
In File # 74-746A**

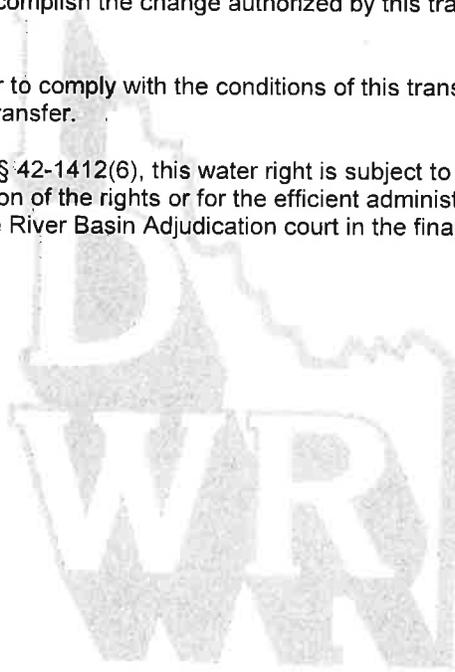
Transfer No. 84007



**WATER RIGHT NO. 74-746A**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. Water is delivered through L-10.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
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. 74-15610**

**As Modified by Transfer No. 84007**

In accordance with the approval of Transfer No. 84007, Water Right No. 74-15610 is now described as follows:

**Right Holder:** EAGLE VALLEY RANCH LLC  
446 BOHANNON CREEK RD  
SALMON, ID 83467-5045

**Priority Date:** 6/1/1880

**Source:** LEMHI RIVER **Tributary:** SALMON RIVER

**BENEFICIAL USE** **From** **To** **Diversion Rate**  
IRRIGATION 03/15 to 11/15 4.260 cfs  
4.260 cfs

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

LEMHI RIVER SESE Sec 33 Twp 21N Rge 23E LEMHI 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			
21N	23E	29																	4.6	0.5	5.1
21N	23E	32	33.5	33.8	3.0	27.6	10.8														108.7
21N	23E	33					3.9	19.3	24.1	5.2			7.5								60.0

Right Acre Limit: 142.1  
POU Total Acres: 173.8

**CONDITIONS OF APPROVAL**

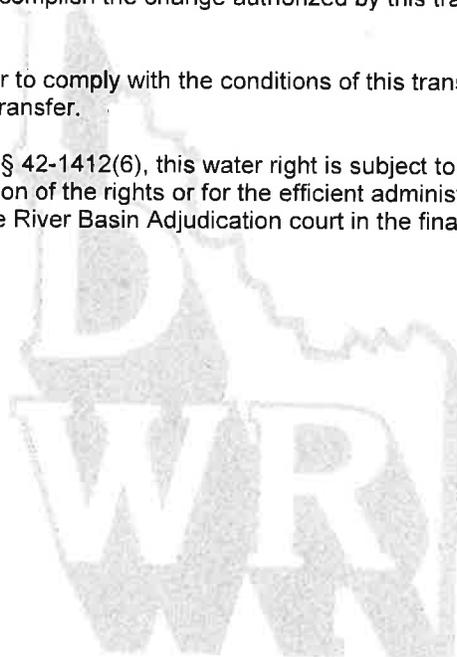
1. This right is limited to the irrigation of 142.1 acres within the authorized place of use in a single irrigation season.
2. Rights 74-746A, 74-746B, 74-15609, 74-15610 and 74-15611 when combined shall not exceed the irrigation of 173.8 acres.
3. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right will 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.74.
5. 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).

Transfer No. 84007

**WATER RIGHT NO. 74-15610**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. Water is delivered through L-10.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
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. 74-15612**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

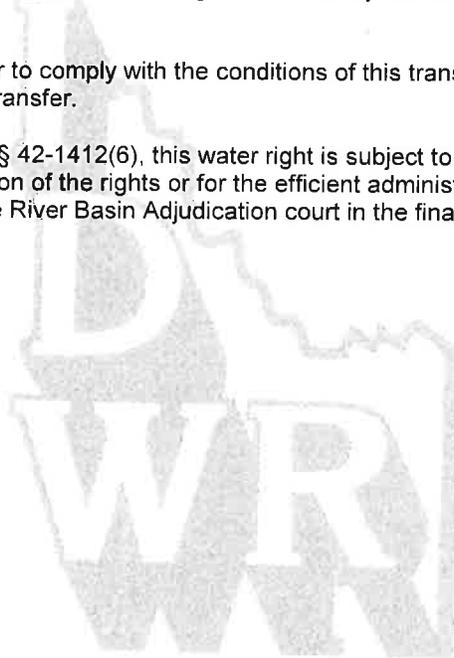
6. Water is delivered through L-10 and L-13.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 74-746B**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. Water is delivered through L-10.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
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. 74-746E**  
**As Modified by Transfer No. 84007**

In accordance with the approval of Transfer No. 84007, Water Right No. 74-746E is now described as follows:

**Right Holder:** VIRGINIA BODENHAMER AND  
 ALLEN BODENHAMER  
 22 S BARRACKS LN  
 SALMON, ID 83467-5406

**Priority Date:** 6/1/1880

**Source:** LEMHI RIVER

**Tributary:** SALMON RIVER

**BENEFICIAL USE**  
 IRRIGATION

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

**Diversion Rate**  
 13.500 cfs  
 13.500 cfs

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

LEMHI RIVER SESE Sec 33 Twp 21N Rge 23E LEMHI 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		
21N	23E	30																	4.2	4.2
21N	23E	31	37.9		19.0	40.0									29.3	1.2				127.4
21N	23E	32		2.3	38.2	9.5	24.1	38.2	40.0	40.0	38.4	40.0	11.0	3.8	9.2	24.2				318.9

POU Total Acres: 450.5

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
2. Use of water under this right will 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.74.
3. 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).
4. Water is delivered through L-10.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Transfer No. 84007

**WATER RIGHT NO. 74-746E**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. This right does not grant any right-of-way or easement across the land of another.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 74-4005B**  
**As Modified by Transfer No. 84007**

In accordance with the approval of Transfer No. 84007, Water Right No. 74-4005B is now described as follows:

**Right Holder:**               LOWELL CERISE  
                                       56 WHITING RD  
                                       SALMON, ID 83467-5276

**Priority Date:**               4/20/1910

**Source:**                   LEMHI RIVER                               **Tributary:**               SALMON RIVER

<b><u>BENEFICIAL USE</u></b>	<b><u>From</u></b>		<b><u>To</u></b>	<b><u>Diversion Rate</u></b>
IRRIGATION	3/15	to	11/15	0.390 cfs
				0.390 cfs

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

LEMHI RIVER                       SESE                       Sec 33 Twp 21N Rge 23E LEMHI 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		
21N	22E	25		3.0			10.0													13.0

POU Total Acres:               13.0

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
2. Use of water under this right will 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.74.
3. 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).
4. Water is delivered through L-10.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
6. This right does not grant any right-of-way or easement across the land of another.

Transfer No.    84007

**WATER RIGHT NO. 74-4005B**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 74-4005C**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 74-4005D**  
**As Modified by Transfer No. 84007**

In accordance with the approval of Transfer No. 84007, Water Right No. 74-4005D is now described as follows:

**Right Holder:** ALLEN BODENHAMER AND  
 VIRGINIA BODENHAMER  
 22 S BARRACKS LN  
 SALMON, ID 83467-5406

**Priority Date:** 4/20/1878

**Source:** LEMHI RIVER

**Tributary:** SALMON RIVER

<b><u>BENEFICIAL USE</u></b> IRRIGATION	<b><u>From</u></b> 3/15	to	<b><u>To</u></b> 11/15	<b><u>Diversion Rate</u></b> 0.270 cfs 0.270 cfs
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**LOCATION OF POINT(S) OF DIVERSION**

LEMHI RIVER SESE Sec 33 Twp 21N Rge 23E LEMHI 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	
21N	23E	31			9.0														9.0

POU Total Acres: 9.0

**CONDITIONS OF APPROVAL**

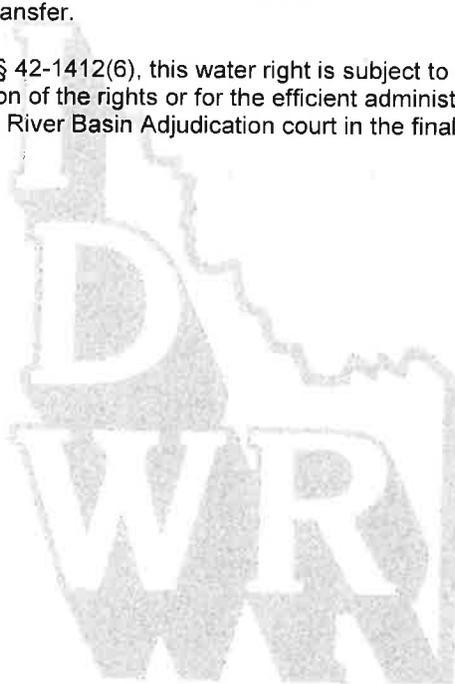
1. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
2. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.74.
3. 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).
4. Water is delivered through L-10.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
6. This right does not grant any right-of-way or easement across the land of another.

Transfer No. 84007

**WATER RIGHT NO. 74-4005D**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 74-4005E**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. This right does not grant any right-of-way or easement across the land of another.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 74-1684**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

7. 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. 74-15609**  
**As Modified by Transfer No. 84007**

**CONDITIONS OF APPROVAL**

6. Water is delivered through L-10.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
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.



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: [idwr.idaho.gov](http://idwr.idaho.gov) • Email: [easterninfo@idwr.idaho.gov](mailto:easterninfo@idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

July 20, 2020

STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE ID 83707-0025

EAGLE VALLEY RANCH LLC  
446 BOHANNON CREEK RD  
SALMON ID 83467-5045

VIRGINIA BODENHAMER  
ALLEN BODENHAMER  
22 S BARRACKS LN  
SALMON ID 83467-5406

LOWELL CERISE  
56 WHITING RD  
SALMON ID 83467-5276

Re: Transfer No: 84007

Water Right No(s): 74-746A , 74-746B , 74-746E , 74-1684, 74-4005B , 74-4005C , 74-4005D , 74-4005E , 74-15609, 74-15610, 74-15612

**Transfer Approval Notice**

Dear Water Right Holder:

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

The Transfer of Water Right(s) 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.

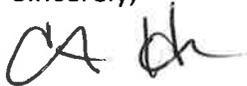
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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) 525-7161.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH dh', is written over the typed name.

Christina Henman  
Administrative Assistant

Enclosure

**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 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.: 84007**

**Water Right No(s): 74-746A , 74-746B , 74-746E , 74-1684, 74-4005B , 74-4005C , 74-4005D , 74-4005E , 74-15609, 74-15610, 74-15612**

**STATE OF IDAHO  
DEPT OF FISH AND GAME  
PO BOX 25  
BOISE ID 83707-0025**

**EAGLE VALLEY RANCH LLC  
446 BOHANNON CREEK RD  
SALMON ID 83467-5045**

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**LOWELL CERISE  
56 WHITING RD  
SALMON ID 83467-5276**



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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.