

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84038**

This is to certify that: KEITH O NEIL HELMICK AND
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE, ID 83716-3410

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>
37-2158	WR/DECREED	11/5/1909	1.000 cfs	N/A	N/A	69.0	UNNAMED STREAM

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>
37-2158	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>
37-2158	37-2158	1.000 cfs	N/A	N/A	69.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.000 cfs	N/A	N/A	69.0		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 15th day of June, 2020


Southern Region Manager

Transfer No. 84038

WATER RIGHT NO. 37-2158
As Modified by Transfer No. 84038

In accordance with the approval of Transfer No. 84038, Water Right No. 37-2158 is now described as follows:

Right Holder: KEITH O NEIL HELMICK AND
 SANDRA R HELMICK
 16 E INDIAN CREEK RD
 BOISE, ID 83716-3410

Priority Date: 11/5/1909

Source: UNNAMED STREAM

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION
 STOCKWATER

From 04/15 to 10/31
 01/01 to 12/31

Diversion Rate

1.000 cfs
 0.090 cfs
 1.000 cfs

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM NWSWSW Sec 32 Twp 01S Rge 11E ELMORE County
 UNNAMED STREAM NWSWSW Sec 33 Twp 01S Rge 11E ELMORE 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	
01S	11E	33									35.0			34.0					69.0

POU Total Acres: 69.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	11E	33											X	X					

CONDITIONS OF APPROVAL

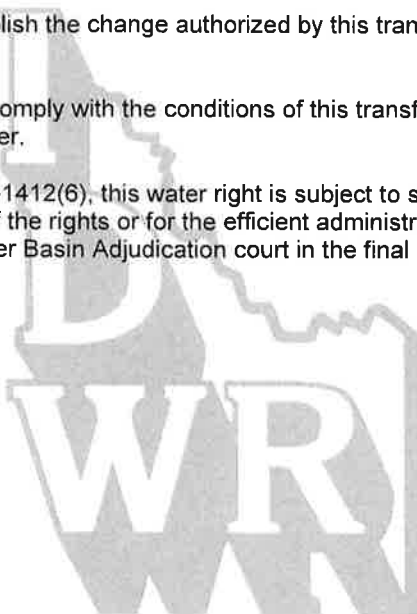
1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37B.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.

Transfer No. 84038

WATER RIGHT NO. 37-2158
As Modified by Transfer No. 84038

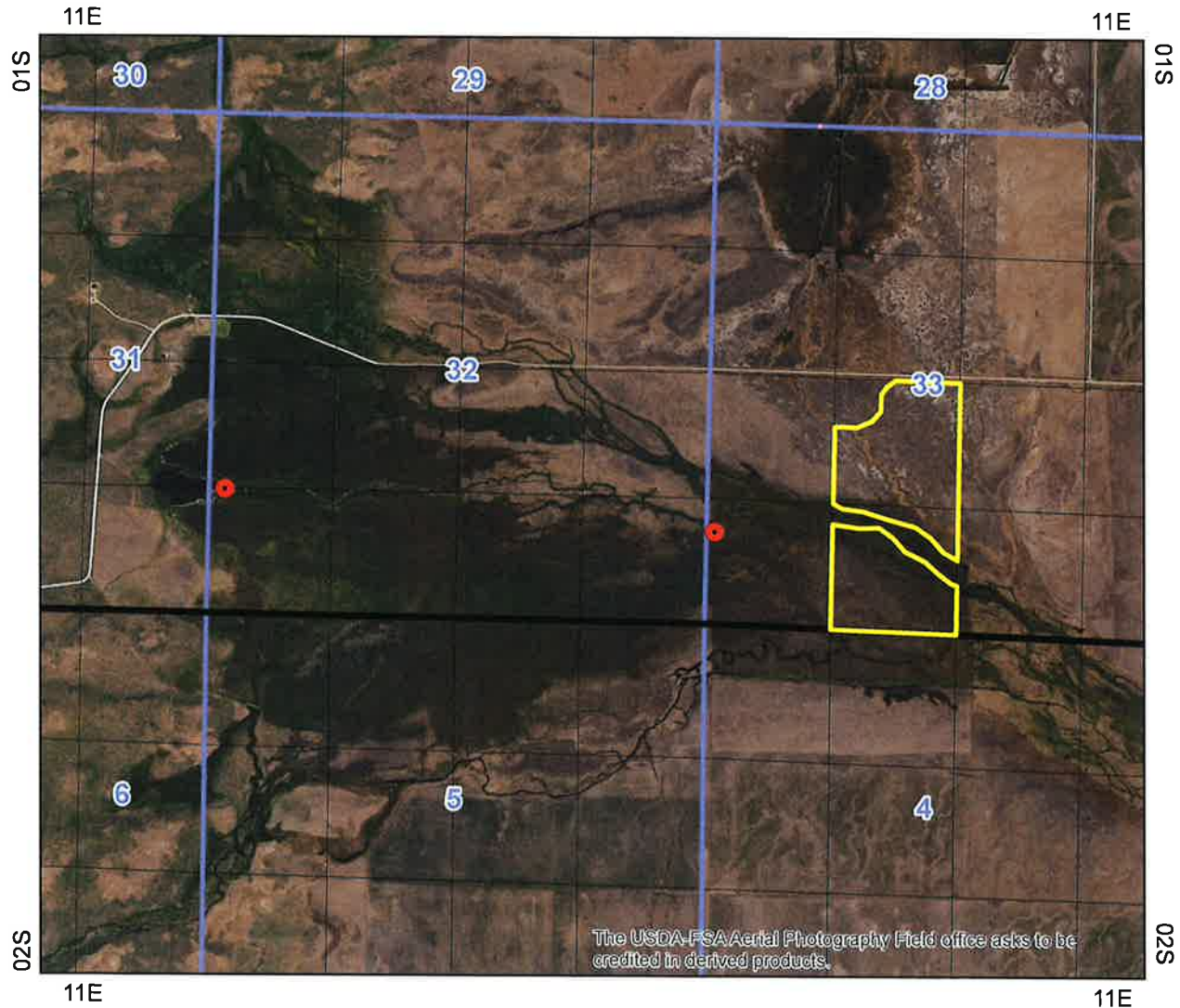
CONDITIONS OF APPROVAL






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. The quantity of water under this right for stockwater uses shall not exceed 13,000 gallons per day.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
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.



State of Idaho
Department of Water Resources
Attachment to Transfer # 84038
37-2158

This map depicts the IRRIGATION & STOCKWATER 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.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.225 0.45 0.9 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: www.idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 16, 2020

KEITH O NEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716-3410

Re: Transfer No: 84035
Water Right No(s): 37-343A

Re: Transfer No: 84038
Water Right No(s): 37-2158

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

c:

RUSTY KRAMER
WATER DISTRICT 37B
246B S HWY 46
FAIRFIELD ID 83327-5560

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 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.: 84035
Water Right No(s): 37-343A

Re: Transfer No: 84038
Water Right No(s): 37-2158

KEITH O NEIL HELMICK
SANDRA R HELMICK
16 E INDIAN CREEK RD
BOISE ID 83716-3410

RUSTY KRAMER
WATER DISTRICT 37B
246B S HWY 46
FAIRFIELD ID 83327-5560



Denise Maline
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

Date: June 2, 2020
To: Transfer 84038 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes adding an existing point of diversion (POD) to water right 37-2158, an irrigation (1.00 cfs, 69 acres) and stockwater right (0.090 cfs; 1.0 cfs combined) from an Unnamed Stream tributary to the Malad River. The proposed POD is located approximately 19.8 miles west and 3.8 miles south of Fairfield. The current POD and the place of use are located approximately 1.0 miles to 1.2 miles downstream from the proposed POD.

Overlap review indicates the proposed POD is also utilized as part of the diversion system for water right 37-4403.

Pods and POU are located in Water District 37B and Watermaster had no comments or concerns with this application.

- **Authority to File:**
IDWR records indicate the applicant currently owns the water right and properties associated with this transfer.
- **Water Right Validity:**
Water rights 37-2158 was decreed in the SRBA on 1/31/2011. Aerial imagery indicates the place of use for this water right appears irrigated.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. Application was subject to public notice and protest.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

RECEIVED

MAY 18 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 84035**

✓
KEITH O NEIL HELMICK and SANDRA R HELMICK, 16 E INDIAN CREEK RD, BOISE, ID 83716-3410 has filed Application No. 84035 for changes to the following water rights within ELMORE County(s): Right No(s). 37-343A. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes adding an existing point of diversion (POD) to a 1.46 cfs Malad River water right used to irrigate 73 acres. The proposed POD is located approximately 19.9 miles west and 3.5 miles south of Fairfield. The current POD and the place of use are located approximately 0.8 miles to 1.3 miles downstream from the proposed POD.

✓
**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 84038**

KEITH O NEIL HELMICK and SANDRA R HELMICK, 16 E INDIAN CREEK RD, BOISE, ID 83716-3410 has filed Application No. 84038 for changes to the following water rights within ELMORE County(s): Right No(s). 37-2158. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes adding an existing point of diversion (POD) to a 1.00 cfs Unnamed Stream water right that is tributary to the Malad River and is used to irrigate (1.00 cfs) 69 acres and for stockwater use (0.09 cfs, 1.0 cfs combined). The proposed POD is located approximately 19.8 miles west and 3.8 miles south of Fairfield. The current POD and the place of use are located approximately 1.0 miles to 1.2 miles downstream from the proposed POD.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see research.idwr.idaho.gov/apps/waterrights/QueryNewTransfers. 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, Southern Region, 650 ADDISON AVE W, STE. 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **May 26, 2020**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

First Publication:

May 6, 2020

Second Publication:

May 13, 2020

AFFIDAVIT OF PUBLICATION

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 6 day of May, 2020, and the last publication having been made on the 13 day of May, 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.

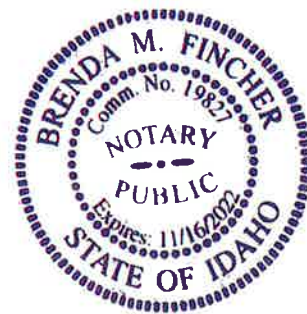
Joy Martinez
Legal Clerk

Subscribed and sworn to me this 13th day of May, 2020.

Brenda M. Fincher
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

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



✓ DM 5/21/2020

Maline, Denise

From: Conley, Keats <keats.conley@idfg.idaho.gov>
Sent: Wednesday, May 06, 2020 12:39 PM
To: Maline, Denise
Subject: RE: Comment Letter for Transfer No. 84038

Denise,

Thank you for the opportunity to review Application-for-Transfer of Water Right No. 84038. The application for transfer proposes to add a new point of diversion approximately 10 miles upstream on unnamed tributary to the Malad River for irrigation and stockwater use (1 cfs).

IDFG has no comments or recommendations on the application at this time.

Best regards,

Keats

Keats Conley
Environmental Staff Biologist
Idaho Department of Fish and Game – Magic Valley Region
324 South 417 East, Suite 1
Jerome, ID 83338
Office: (208) 644-6310
Cell: (208) 484-9099*



<https://idfg.idaho.gov>

*Please use cell phone during COVID19 Statewide Stay-Home Order.

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Friday, May 1, 2020 12:09 PM
To: Conley, Keats <keats.conley@idfg.idaho.gov>
Subject: Comment Letters for (3) applications for transfer

Good afternoon Keats,

Attached is information regarding (3) applications currently being processed by the Department. Please review the information, complete the attached recommendation form(s), and submit it to this office within 21 days.

Please feel free to contact this office if you have any questions.