

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83782**

This is to certify that: LANCE & LISA FUNK PARTNERSHIP  
PO BOX 310  
AMERICAN FALLS, ID 83211

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>
35-14240	WR/LICENSE	2/8/2012	3.370 cfs	674.8 af	N/A	168.7	GROUND WATER
35-14241	WR/LICENSE	2/8/2012	5.900 cfs	1476.4 af	N/A	369.1	GROUND WATER

**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>
35-14240	YES	YES	YES	YES	NO	NO
35-14241	NO	NO	YES	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>
35-14240	35-14655	0.150 cfs	63.7 af	46.7	415.8	35-14240	2.440 cfs	488.0 af	N/A	122.0
35-14241	35-14241	5.900 cfs	1476.4 af	369.1	415.8	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>6.050 cfs</b>	<b>1540.1 af</b>	<b>N/A</b>	<b>415.8</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 16<sup>th</sup> day of April, 2020

  
\_\_\_\_\_  
Regional Manager

**Support Data  
In File # 35-14240**

Transfer No. 83782

# **WATER RIGHT NO. 35-14240**

## **As Modified by Transfer No. 83782**

In accordance with the approval of Transfer No. 83782, Water Right No. 35-14240 is now described as follows:

**Right Holder:** LANCE AND/OR LISA FUNK PARTNERSHIP  
PO BOX 310  
AMERICAN FLS, ID 83211-0310

**Priority Date:** 2/8/2012

**Source:** GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	2.440 cfs	488.0 af
			2.440 cfs	488.0 af

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

GROUND WATER                      SWSWSE                      Sec 1    Twp 07S Rge 28E    POWER 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	
07S	28E	12	30.5	30.5	30.5	30.5													122.0

POU Total Acres: 122.0

### **CONDITIONS OF APPROVAL**

1. Rights 35-7973 and 35-14240 when combined shall not exceed a total diversion rate of 4.81 cfs.
2. Rights 35-7973, 35-14240, and 35-14654 when combined shall not exceed a total diversion rate of 5.39 cfs.
3. 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. 120.
4. Prior to diversion of water under this right, the right holder shall install and maintain a flow meter measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. This right is for the use of trust water, and it is subject to review 5 years after the date of permit approval to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.

Transfer No. 83782

**WATER RIGHT NO. 35-14240**

**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

7. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.
8. To mitigate for the depletion of water resulting from the use of water under water rights 35-14240, 35-14241, 35-14242, 35-14243, and 35-14655 and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official records for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or a portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
29-2284 (previously 35-14014)	Industrial	4.44	3215.5	N/A
29-2301 (previously 35-14015)	Industrial	3.95	2858.3	N/A
Combined Limit:			6073.8	

If the specified mitigation rights, or portion thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water, a priority call, or a termination in lease contract then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

9. In the event the right holder does not maintain the right to use water rights 29-2284 and 29-2301 for mitigation purposes, the right holder may propose a substitute mitigation plan. The substitute plan must be provided to the Department no later than December 1st in the year immediately prior to the irrigation season where the substitute plan is proposed to be implemented. The Department will advertise the substitute plan to the public and the protestants shall have the right to challenge the substitute plan. If the substitute plan is not approved by the Department, the right holder shall not divert under this right.
10. By December 1st of each year, the right holder shall provide a written report to the Department describing the number and location of acres irrigated that year, the volume of water diverted under this right, the source of mitigation for the next irrigation season, and the number and location of acres proposed to be irrigated in the following year.
11. As resources allow, the Department will conduct at least one in-person field examination of the authorized place of use of this right each year to verify the required mitigation and authorized irrigation under this right prior to June 15th of each year. It shall be the responsibility of the right holder to follow up with the Department by June 15th of each year to determine if the field examination was performed. If the Department is unable to conduct the field examination for any reason, the right holder or its consultant shall perform the field examination and report findings from the field examination to the Department and the protestants to this right by July 15th of each year.
12. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein.

**WATER RIGHT NO. 35-14240**  
**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

13. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.



**WATER RIGHT NO. 35-14655**  
**As Modified by Transfer No. 83782**

In accordance with the approval of Transfer No. 83782, Water Right No. 35-14655 is now described as follows:

**Right Holder:** LANCE AND/OR LISA FUNK PARTNERSHIP  
PO BOX 310  
AMERICAN FLS, ID 83211-0310

**Priority Date:** 2/8/2012

**Source:** GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.150 cfs 0.150 cfs	63.7 af 63.7 af

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

GROUND WATER	L1 (NENE)	Sec 6 Twp 07S Rge 29E POWER County
GROUND WATER	NWNE	Sec 7 Twp 07S Rge 29E POWER 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	
07S	29E	6	22.1	20.4	32.1	33.2	26.4	15.6	24.6	37.3	32.2	19.9	21.5	33.2	27.9	26.4	26.6	16.4	415.8

Right Acre Limit: 46.7  
POU Total Acres: 415.8

**CONDITIONS OF APPROVAL**

1. Rights 35-14241 and 35-14655 when combined shall not exceed the irrigation of 415.8 acres.
2. Rights 35-7914, 35-14241, and 35-14655 when combined shall not exceed a total diversion rate of 6.61 cfs.
3. 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. 120.
4. 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.
5. Prior to the diversion and use of water under Transfer approval 83782, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 83782

**WATER RIGHT NO. 35-14655**  
**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. To mitigate for the depletion of water resulting from the use of water under water rights 35-14240, 35-14241, 35-14242, 35-14243, and 35-14655 and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official records for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or a portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
29-2284 (previously 35-14014)	Industrial	4.44	3215.5	N/A
29-2301 (previously 35-14015)	Industrial	3.95	2858.3	N/A
Combined Limit:			6073.8	

If the specified mitigation rights, or portion thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water, a priority call, or a termination in lease contract then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

8. By December 1st of each year, the right holder shall provide a written report to the Department describing the number and location of acres irrigated that year, the volume of water diverted under this right, the source of mitigation for the next irrigation season, and the number and location of acres proposed to be irrigated in the following year.
9. As resources allow, the Department will conduct at least one in-person field examination of the authorized place of use of this right each year to verify the required mitigation and authorized irrigation under this right prior to June 15th of each year. It shall be the responsibility of the right holder to follow up with the Department by June 15th of each year to determine if the field examination was performed. If the Department is unable to conduct the field examination for any reason, the right holder or its consultant shall perform the field examination and report findings from the field examination to the Department and the protestants to this right by July 15th of each year.
10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
11. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein.
12. This right is for the use of trust water, and it is subject to review 5 years after the date of permit approval to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.

**WATER RIGHT NO. 35-14655**  
**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

13. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.
14. In the event the right holder does not maintain the right to use water rights 29-2284 and 29-2301 for mitigation purposes, the right holder may propose a substitute mitigation plan. The substitute plan must be provided to the Department no later than December 1st in the year immediately prior to the irrigation season where the substitute plan is proposed to be implemented. The Department will advertise the substitute plan to the public and the protestants shall have the right to challenge the substitute plan. If the substitute plan is not approved by the Department, the right holder shall not divert under this right.
15. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
16. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
17. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

**WATER RIGHT NO. 35-14241**  
**As Modified by Transfer No. 83782**

In accordance with the approval of Transfer No. 83782, Water Right No. 35-14241 is now described as follows:

**Right Holder:** LANCE AND/OR LISA FUNK PARTNERSHIP  
 PO BOX 310  
 AMERICAN FLS, ID 83211-0310

**Priority Date:** 2/8/2012

**Source:** GROUND WATER

<b><u>BENEFICIAL USE</u></b>	<b><u>From</u></b>	<b><u>To</u></b>	<b><u>Diversion Rate</u></b>	<b><u>Diversion Volume</u></b>
IRRIGATION	04/01	to 10/31	5.900 cfs	1476.4 af
			5.900 cfs	1476.4 af

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

GROUND WATER      NWNWNE      Sec 7    Twp 07S Rge 29E    POWER 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	
07S	29E	6	22.1	20.4	32.1	33.2	26.4	15.6	24.6	37.3	32.2	19.9	21.5	33.2	27.9	26.4	26.6	16.4	415.8
Right Acre Limit:			369.1																
POU Total Acres:			415.8																

**CONDITIONS OF APPROVAL**

1. Rights 35-14241 and 35-14655 when combined shall not exceed the irrigation of 415.8 acres.
2. Rights 35-7914 and 35-14241 when combined shall not exceed a total diversion rate of 6.46 cfs.
3. Rights 35-7914, 35-14241, and 35-14655 when combined shall not exceed a total diversion rate of 6.61 cfs.
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. 120.
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. 83782



**WATER RIGHT NO. 35-14241**  
**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

6. Prior to the diversion and use of water under Transfer approval 83782, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
7. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
8. To mitigate for the depletion of water resulting from the use of water under water rights 35-14240, 35-14241, 35-14242, 35-14243, and 35-14655 and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official records for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or a portion thereof, are being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
29-2284 (previously 35-14014)	Industrial	4.44	3215.5	N/A
29-2301 (previously 35-14015)	Industrial	3.95	2858.3	N/A
Combined Limit:			6073.8	

If the specified mitigation rights, or portion thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water, a priority call, or a termination in lease contract then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

9. By December 1st of each year, the right holder shall provide a written report to the Department describing the number and location of acres irrigated that year, the volume of water diverted under this right, the source of mitigation for the next irrigation season, and the number and location of acres proposed to be irrigated in the following year.
10. As resources allow, the Department will conduct at least one in-person field examination of the authorized place of use of this right each year to verify the required mitigation and authorized irrigation under this right prior to June 15th of each year. It shall be the responsibility of the right holder to follow up with the Department by June 15th of each year to determine if the field examination was performed. If the Department is unable to conduct the field examination for any reason, the right holder or its consultant shall perform the field examination and report findings from the field examination to the Department and the protestants to this right by July 15th of each year.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
12. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein.

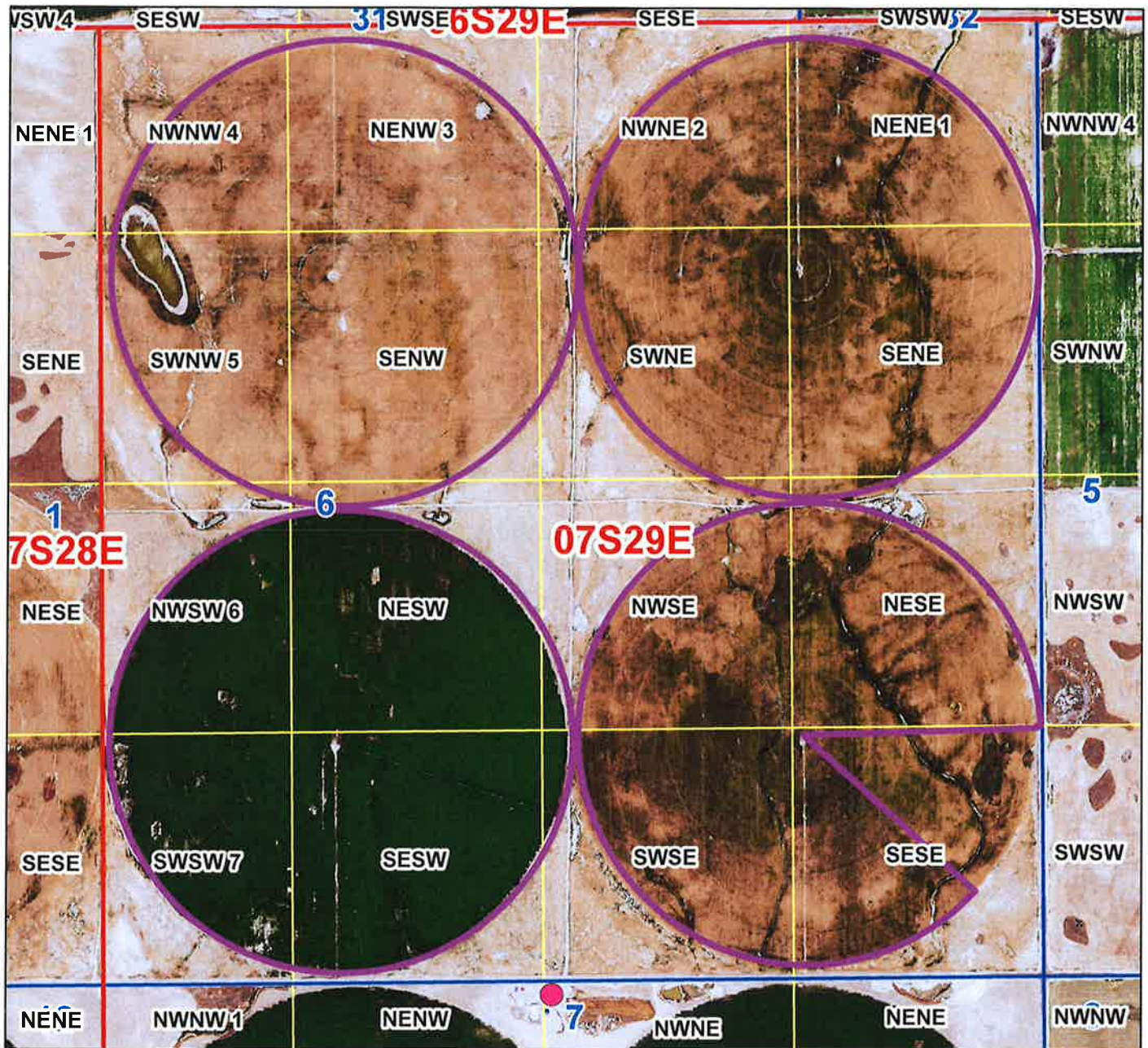
**WATER RIGHT NO. 35-14241**  
**As Modified by Transfer No. 83782**

**CONDITIONS OF APPROVAL**

13. This right is for the use of trust water, and it is subject to review 5 years after the date of permit approval to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
14. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.
15. In the event the right holder does not maintain the right to use water rights 29-2284 and 29-2301 for mitigation purposes, the right holder may propose a substitute mitigation plan. The substitute plan must be provided to the Department no later than December 1st in the year immediately prior to the irrigation season where the substitute plan is proposed to be implemented. The Department will advertise the substitute plan to the public and the protestants shall have the right to challenge the substitute plan. If the substitute plan is not approved by the Department, the right holder shall not divert under this right.
16. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
17. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
18. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

# Attachment to Transfer Approval 83782

This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



## Legend

- Water Right POD
- Water Right POU
- Township/Range
- Sections
- QQ

0 500 1,000 2,000 Feet



Date: 4/16/2020



**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

April 16, 2020

LANCE & LISA FUNK PARTNERSHIP  
PO BOX 310  
AMERICAN FALLS ID 83211

Re: Transfer No: 83782  
Water Right No(s): 35-14240, 35-14241

**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 be 'CA' followed by a stylized flourish.

Christina Henman  
Administrative Assistant

Enclosure

CC:

BROCKWAY ENGINEERING PLLC  
C/O GREG SULLIVAN  
2016 N WASHINGTON ST STE 4  
TWIN FALLS ID 83301

RABO AGRIFINANCE LLC  
14767 N OUTER 40 RD STE 400  
CHESTERFIELD MO 63017

## 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.

## **CERTIFICATE OF SERVICE**

I hereby certify that on April 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.: 83782**  
**Water Right No(s): 35-14240, 35-14241**

**LANCE & LISA FUNK PARTNERSHIP**  
**PO BOX 310**  
**AMERICAN FALLS ID 83211**

**BROCKWAY ENGINEERING PLLC**  
**C/O GREG SULLIVAN**  
**2016 N WASHINGTON ST STE 4**  
**TWIN FALLS ID 83301**

**RABO AGRIFINANCE LLC**  
**14767 N OUTER 40 RD STE 400**  
**CHESTERFIELD MO 63017**

A handwritten signature in black ink, appearing to read 'CA' followed by a stylized flourish, positioned above a horizontal line.

**Christina Henman**  
**Administrative Assistant**