

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 83897

This is to certify that: BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO, TX 78209-1533

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>
45-13522	WR/DECREED	3/15/1976	1.050 cfs	354.4 af	88.6	358.6	GROUND WATER
45-2509	WR/DECREED	11/30/1955	4.240 cfs	1080.0 af	270.0	358.6	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>
45-13522	NO	NO	YES	NO	NO	NO
45-2509	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>
45-13522	45-13522	1.050 cfs	354.4 af	88.6	358.6	N/A	N/A	N/A	N/A	N/A
45-2509	45-2509	4.240 cfs	1080.0 af	270.0	358.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		4.240 cfs	1434.4 af	358.6	358.6		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 6th day of April, 2020.


Southern Region Manager

SUPPORT DATA

IN FILE # 45-2509

Transfer No. 83897

WATER RIGHT NO. 45-2509**As Modified by Transfer No. 83897**

In accordance with the approval of Transfer No. 83897, Water Right No. 45-2509 is now described as follows:

Right Holder: BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO, TX 78209-1533

Priority Date: 11/30/1955

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	4.240 cfs	1080.0 af
			4.240 cfs	1080.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNWSW Sec 32 Twp 10S Rge 22E CASSIA 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	
10S	22E	31													40.0	6.6			46.6
10S	22E	32					38.0	40.0	38.0	38.0	38.0	40.0			40.0	40.0			312.0

Right Acre Limit: 270.0

POU Total Acres: 358.6

CONDITIONS OF APPROVAL

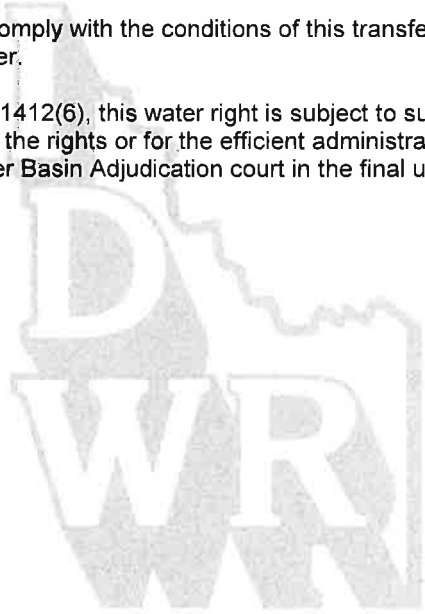
1. This right is limited to the irrigation of 270.0 acres within the authorized place of use in a single irrigation season.
2. Rights 45-2509 and 45-13522 when combined shall not exceed a total diversion rate of 4.24 cfs, a total annual maximum diversion volume of 1434.4 af at the field headgate, and the irrigation of 358.6 acres.
3. 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. 140.
4. 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).
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.

Transfer No. 83897

WATER RIGHT NO. 45-2509
As Modified by Transfer No. 83897

CONDITIONS OF APPROVAL

6. Right No. 45-13522 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
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. 45-13522**As Modified by Transfer No. 83897**

In accordance with the approval of Transfer No. 83897, Water Right No. 45-13522 is now described as follows:

Right Holder: BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO, TX 78209-1533

Priority Date: 3/15/1976

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	1.050 cfs	354.4 af
			1.050 cfs	354.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNWSW Sec 32 Twp 10S Rge 22E CASSIA 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	
10S	22E	31													40.0	6.6			46.6
10S	22E	32					38.0	40.0	38.0	38.0	38.0	40.0			40.0	40.0			312.0

Right Acre Limit: 88.6
POU Total Acres: 358.6

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 88.6 acres within the authorized place of use in a single irrigation season.
2. Rights 45-2509 and 45-13522 when combined shall not exceed a total diversion rate of 4.24 cfs, a total annual maximum diversion volume of 1434.4 af at the field headgate, and the irrigation of 358.6 acres.
3. 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. 140.
4. 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).
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.

Transfer No. 83897

WATER RIGHT NO. 45-13522

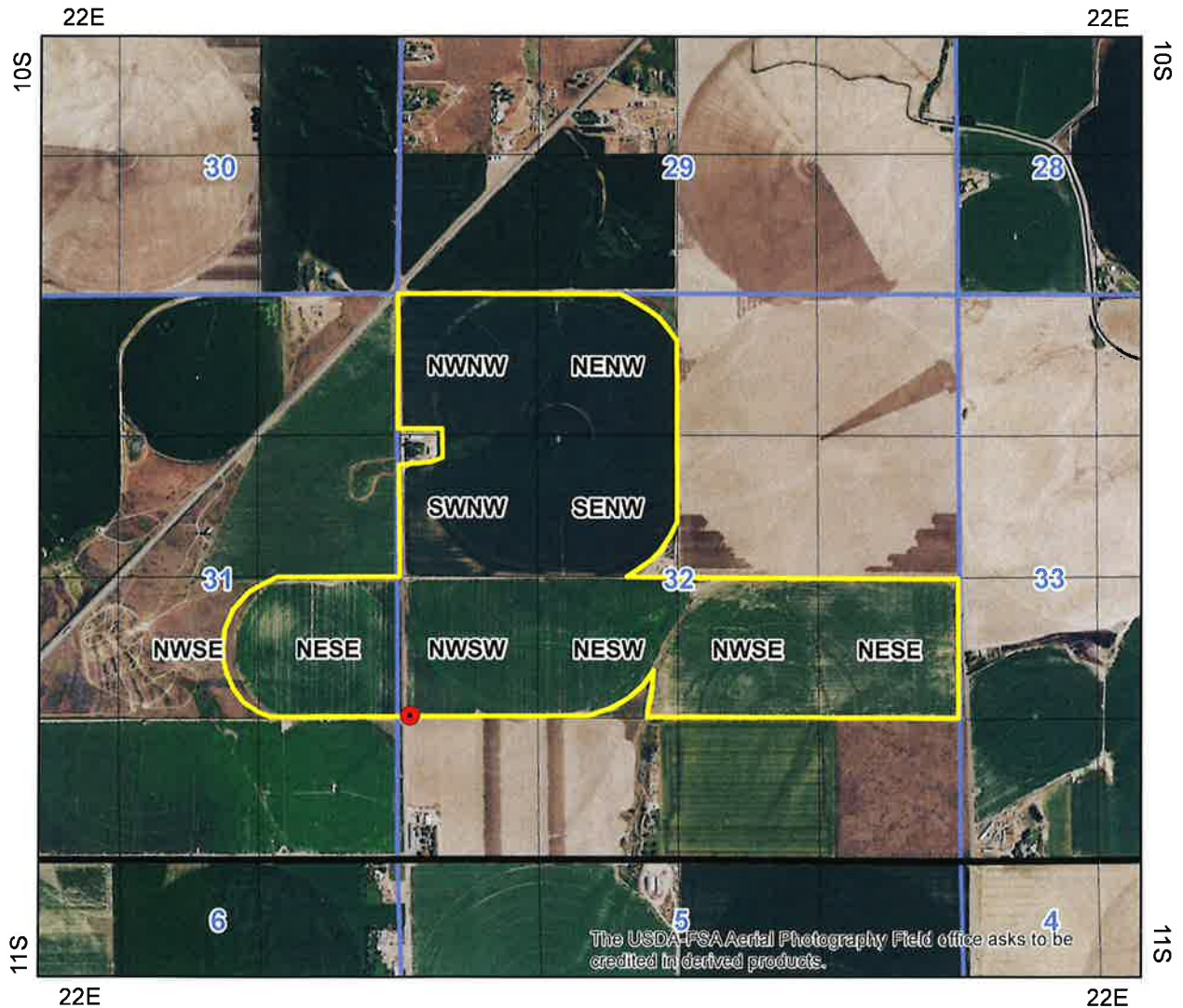
As Modified by Transfer No. 83897

CONDITIONS OF APPROVAL

6. This right is based upon an enlargement of right No. 45-2509 pursuant to Section 42-1426, Idaho Code.
7. This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Idaho Code § 42-1426. As between water rights decreed as enlargements pursuant to Idaho Code § 42-1426, the earlier priority right is the superior right.
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
Attachment to Transfer # 83897
45-2509 & 45-13522

This map depicts the IRRIGATION place of use boundary for these water rights 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 0.2 0.4 0.8 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR TRANSFER
To change the ownership of an application for transfer

RECEIVED
MAR 03 2020
DEPT OF WATER RESOURCES
SOUTHERN REGION

Page 1 of 2 is to be completed by the current transfer applicant. Notarization required.
Page 2 of 2 is to be completed by the new transfer applicant. Notarization not required.

I, BURLEY WEST INVESTMENTS, L.L.C., hereby assign to
Current Applicant(s)
BURLEY WEST FARM LLC
New Applicant(s)
of, 1250 NE Loop 410, Suite 300
Mailing address
San Antonio Texas 78209
City State ZIP Telephone No.

All my right, title, and interest in and to Application for Transfer No. 83897.

Made this 18 day of February, 2020.

[Signature]
Signature of Current Applicant or Authorized Representative

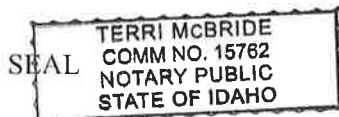
Joel Parker, Manager
Print Name and Title (if applicable)

Signature of Current Applicant or Authorized Representative

Print Name and Title (if applicable)

State of Idaho)
County of Minidoka)ss

On this 18th day of February, 2020, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.



[Signature]
Notary Public

My commission expires: 1-16-20

RECEIVED

MAR 03 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR TRANSFER

Name of New Applicant(s) BURLEY WEST FARM LLC Phone _____

Mailing address: 1250 NE Loop 410, Suite 300

City San Antonio State TX Zip 78209 Email trf@goldcrestft.com; rf@goldcrestft.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant.
Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule on application for transfer instructions.
Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Additional fee(s) required for water right ownership changes; see fee schedule on application for transfer instructions.
Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner.
Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

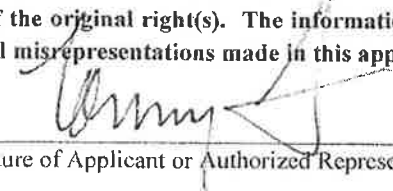
☐ No Representative

Name of Representative Michael P. Lawrence Phone 208-388-1294

Mailing address 601 W Bannock Street, Boise ID 83702 Email mpl@givenspursley.com

- ☒ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


Signature of Applicant or Authorized Representative

Tommy Funk, President
Print Name and Title if applicable

February 12, 2020
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

NOTE: Include the appropriate attachments and fee(s) identified above with this assignment form.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 03 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column. If the water right is leased to the Water Supply Bank, check "Yes". If you are not sure if the water right is leased to the Water Supply Bank, see #6 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
45-2509	Yes ☐	Yes ☐		Yes ☐	Yes ☐
45-13522	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: BURLEY WEST INVESTMENTS, L.L.C.
Name of current water right holder/claimant
3. New Owner(s)/Claimant(s): BURLEY WEST FARM LLC
New owner(s) as listed on the conveyance document Name connector ☐ and ☐ or ☐ and/or
- 1250 NE Loop 410, Suite 300 San Antonio TX 78209
Mailing address City State ZIP
- trf@goldcrestft.com; rf@goldcrestft.com
Telephone Email
4. If the water rights and/or adjudication claims were split, how did the division occur?
☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
5. Date you acquired the water rights and/or claims listed above: February 18, 2020
6. If the water right is leased to the Water Supply Bank changing ownership of a water right will reassign to the new owner any Water Supply Bank leases associated with the water right. Payment of revenue generated from any rental of a leased water right requires a completed IRS Form W-9 for payment to be issued to an owner. A new owner for a water right under lease shall supply a W-9. Water rights with multiple owners must specify a designated lessor, using a completed Lessor Designation form. Beginning in the calendar year following an acknowledged change in water right ownership, compensation for any rental will go to the new owner(s).
7. This form must be signed and submitted with the following **REQUIRED** items:
☒ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
☐ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
☒ Filing fee (see instructions for further explanation):
 o \$25 per *undivided* water right.
 o \$100 per *split* water right.
 o No fee is required for pending adjudication claims.
☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

SUPPORT DATA

IN FILE # 45-2509

8. Signature: [Signature] Tommy Funk, President February 12, 2020
Signature of new owner/claimant Title, if applicable Date
- Signature: _____
Signature of new owner/claimant Title, if applicable Date

For IDWR Office Use Only:

Received by SG Date 3/3/20 Receipt No. 5037796 Receipt Amt. 150.00

Active in the Water Supply Bank? Yes ☐ No ☐ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by JB Date 3-5-2020

AFTER RECORDING RETURN TO:

Givens Pursley LLP
Attn: Kimberly D. Maloney
601 W. Bannock Street
Boise, ID 83702

ELECTRONICALLY RECORDED
DO NOT REMOVE THE COUNTY
STAMPED FIRST PAGE AS IT IS
NOW INCORPORATED AS PART
OF THE ORIGINAL DOCUMENT

CASSIA COUNTY
RECORDED FOR:
FIRST AMERICAN TITLE - BURLEY
04:11:06 PM 02-18-2020
2020-000780
NO. PAGES: 6 FEE: \$15.00
JOSEPH W. LARSEN
COUNTY CLERK
DEPUTY: CVELASQUEZ
Electronically Recorded by Simplifile

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

SPECIAL WARRANTY DEED

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, BURLEY WEST INVESTMENTS, L.L.C., an Idaho limited liability company ("Grantor"), does hereby grant, bargain, sell and convey unto BURLEY WEST FARM LLC, a Delaware limited liability company, whose current mailing address is 1250 NE Loop 410, Suite 300, San Antonio, Texas 78209 ("Grantee"), the following described real property, located in Cassia County, Idaho, to wit:

See Exhibit A attached hereto and incorporated herein by this reference (the "Land"),

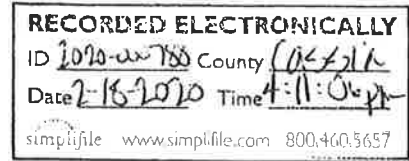
TOGETHER WITH all water and water rights and other entitlements to water appurtenant to or beneficially used upon the Land including, but not limited to, those described on Exhibit B, reserving no portions thereof to Grantor, and all others represented by any decree, license, permit, claim, permit application or storage entitlement, and all other ditch and canal company, water association, irrigation district, or other water delivery entity shares and entitlements to receive water from any such company, association, district or other entity, and all ditch rights, easements, and rights of way associated with any irrigation or other water well, pump, delivery ditch, canal, lateral, pipeline, or facilities used to divert, convey or deliver any water, water rights, or entitlements appurtenant to or beneficially used upon the Land, and all minerals and mineral rights appurtenant thereto, and all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof and all estate, right, title and interest in and to the Land, as well in law as in equity (collectively, the Land and all appurtenances are, the "Premises").

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns, forever, and subject to such easements, restrictions, reservations, and other exceptions as are of record, or as may be determined by an inspection of the Property, and subject to the matters set forth on Exhibit C to this Special Warranty Deed attached hereto and incorporated herein (collectively the "Permitted Exceptions"). Grantor does hereby covenant to and with Grantee, and its successors and assigns forever, that Grantor is owner in fee simple of the Premises; that Grantor has a good right to convey the fee simple; that the Premises are free from any and all liens, claims, encumbrances or other defects of title created or suffered by or through Grantor except the Permitted Exceptions; and that Grantor shall warrant and defend the same against any other liens, claims, encumbrances or defects of title created or suffered by Grantor, or any person claiming by, through or under Grantor, but none other.

[signature page follows]

AFTER RECORDING RETURN TO:

Givens Pursley LLP
Attn: Kimberly D. Maloney
601 W. Bannock Street
Boise, ID 83702



(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

SPECIAL WARRANTY DEED

FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, BURLEY WEST INVESTMENTS, L.L.C., an Idaho limited liability company ("Grantor"), does hereby grant, bargain, sell and convey unto BURLEY WEST FARM LLC, a Delaware limited liability company, whose current mailing address is 1250 NE Loop 410, Suite 300, San Antonio, Texas 78209 ("Grantee"), the following described real property, located in Cassia County, Idaho, to wit:

See Exhibit A attached hereto and incorporated herein by this reference (the "Land"),

TOGETHER WITH all water and water rights and other entitlements to water appurtenant to or beneficially used upon the Land including, but not limited to, those described on Exhibit B, reserving no portions thereof to Grantor, and all others represented by any decree, license, permit, claim, permit application or storage entitlement, and all other ditch and canal company, water association, irrigation district, or other water delivery entity shares and entitlements to receive water from any such company, association, district or other entity, and all ditch rights, easements, and rights of way associated with any irrigation or other water well, pump, delivery ditch, canal, lateral, pipeline, or facilities used to divert, convey or deliver any water, water rights, or entitlements appurtenant to or beneficially used upon the Land, and all minerals and mineral rights appurtenant thereto, and all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof and all estate, right, title and interest in and to the Land, as well in law as in equity (collectively, the Land and all appurtenances are, the "Premises").

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns, forever, and subject to such easements, restrictions, reservations, and other exceptions as are of record, or as may be determined by an inspection of the Property, and subject to the matters set forth on Exhibit C to this Special Warranty Deed attached hereto and incorporated herein (collectively the "Permitted Exceptions"). Grantor does hereby covenant to and with Grantee, and its successors and assigns forever, that Grantor is owner in fee simple of the Premises; that Grantor has a good right to convey the fee simple; that the Premises are free from any and all liens, claims, encumbrances or other defects of title created or suffered by or through Grantor except the Permitted Exceptions; and that Grantor shall warrant and defend the same against any other liens, claims, encumbrances or defects of title created or suffered by Grantor, or any person claiming by, through or under Grantor, but none other.

[signature page follows]

DATED effective as of the 18 day of February, 2020.

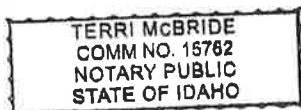
BURLEY WEST INVESTMENTS, L.L.C.,
an Idaho limited liability company

By: [Signature]
Joel Parker, Manager

STATE OF IDAHO)
) ss.
County of minisota)

On this 18th day of February, 2020, before me, a Notary Public in and for said State, personally appeared Joel Parker, known or identified to me to be the manager of BURLEY WEST INVESTMENTS, L.L.C., an Idaho limited liability company, who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public for Idaho
Residing at Rupert
My Commission expires 1-16-26

Exhibit A

Legal Description of the Land

Real property in the County of Cassia, State of Idaho, described as follows:

PARCEL NO. 1:

**TOWNSHIP 10 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO**

Section 31: Part of the N $\frac{1}{2}$ SE $\frac{1}{4}$, more particularly described as follows:

Beginning at the East $\frac{1}{4}$ Corner of Section 31 in T.10 S., R.22 E., B.M. said corner marked by a U.S. G.L.O. iron pipe with brass cap; Thence South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar which shall be the Point of Beginning;

THENCE South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 1316.60 feet to a $\frac{5}{8}$ inch rebar at the Southeast Corner of the N $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE South 89 degrees 48 minutes 40 seconds West along the south line of the N $\frac{1}{2}$ SE $\frac{1}{4}$ for a distance of 1873.80 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 434.51 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 89 degrees 44 minutes 08 seconds East for a distance of 306.37 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 879.61 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 89 degrees 44 minutes 08 seconds East for a distance of 1570.63 feet to the Point of Beginning.

PARCEL NO. 2:

An access and utility easement for the benefit of Parcel No. 1, more particularly described as follows:

**TOWNSHIP 10 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO**

Section 31: Part of the N $\frac{1}{2}$ SE $\frac{1}{4}$, more particularly described as follows:

Beginning at the East $\frac{1}{4}$ Corner of Section 31 in T.10 S., R.22 E., B.M. said corner marked by a U.S. G.L.O. iron pipe with brass cap which shall be the Point of Beginning;

THENCE South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar;

THENCE South 89 degrees 44 minutes 08 seconds West for a distance of 1570.63 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar on the north line of the N $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE North 89 degrees 44 minutes 08 seconds East along said $\frac{1}{4}$ section line for a distance of 1570.68 feet to the Point of Beginning.

PARCEL NO. 3:

Section 32: NW¼, N½SW¼, N½SE¼, EXCEPT the following described tract:

**Beginning at the Northwest corner of said Section 32, said corner marked by a 5/8 inch rebar with a 3 inch cap on top; thence South 00°02'45" East along the West line of Section 32 for a distance of 1316.58 feet to the Point of Beginning;
Thence South 89°17'29" East for a distance of 48.24 feet to a ½ inch rebar;
Thence South 89°17'29" East for a distance of 328.56 feet to a ½ inch rebar;
Thence South 01°03'22" East for a distance of 262.99 feet to a ½ inch rebar;
Thence South 73°21'33" West for a distance of 136.39 feet to a ½ inch rebar;
Thence South 85°31'04" West for a distance of 197.38 feet to a ½ inch rebar;
Thence South 85°31'04" West for a distance of 54.06 feet to the West line of Section 32;
Thence North 00°02'45" West along the West line of Section 32 for a distance of 326.32 feet to the Point of Beginning.**

PARCEL NO. 4:

Easement for the benefit of Parcel No. 3 as created by Easements and Irrigation Structure Agreement dated April 25, 1994 and recorded April 25, 1994 as Instrument No. 230475 on Film No. 255, records of Cassia County, Idaho, over the following described land:

**A twenty-five (25) foot strip adjacent and contiguous on the West of a line beginning at a point on the section line of the SE¼ of Section 29, Township 10 South, Range 22 East, Boise Meridian at the intersection of the section line and the J Canal as the same is now constructed;
Thence South along the section line of said SE¼ and approximately 1,560 feet to the Southeast corner of said SE¼ of Section 29;
Thence continuing South along the section line of the NE¼ of Section 32, Township 10 South, Range 22 East, Boise Meridian approximately 1150 feet;
Thence Southwesterly 2,130 feet, 12.5 feet on each side of that centerline, on, over, across and under the NE¼ of Section 32, Township 10 South, Range 22 East, Boise Meridian to a point on the North boundary of the SE¼ of Section 32, Township 10 South, Range 22 East, Boise Meridian, which point is 1,220 feet West along the North boundary of the SE¼ of Section 32, Township 10 South, Range 22 East Boise Meridian, being the terminus point of the easement.**

Exhibit B

Water Rights

The following water rights identified in the records of the Idaho Department of Water Resources:

WR #	Priority Date	Basis	Source	Water Use	Total Acres	Combined (Acres)	Div. Rate
45-2509	11/30/1955	DECREED	GROUND WATER	IRRIGATION	270	358.6	4.24
45-13522	3/15/1976	DECREED	GROUND WATER	IRRIGATION	88.6		1.05

358.6 Acres

Exhibit C

Permitted Exceptions

1. 2020 real property taxes, a lien not yet due and payable.
2. Levies and assessments of the Southwest Irrigation District and the rights and powers of said District as by law provided.
3. Cathodic Protection System Right of Way granted to Salt Lake Pipe Line Company, recorded July 28, 1959, as Instrument No. 202580 in Book 16 of Miscellaneous in the office of the Recorder of Cassia County, Idaho, over and across the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 32, Township 10 South, Range 22 East of the Boise Meridian. Assignment and Assumption of Right-of-Way Interests, recorded June 25, 2013 as Instrument No. 2013-002852.
4. All matters, and any rights, easements, interests or claims which may exist by reason thereof, disclosed by survey recorded November 25, 2002, as Instrument No. 285078.
5. All matters, and any rights, easements, interests or claims which may exist by reason thereof, disclosed by survey recorded February 11, 2003, as Instrument No. 286505.
6. All matters, and any rights, easements, interests or claims which may exist by reason thereof, disclosed by survey recorded September 18, 2019, as Instrument No. 2019-003824.
7. Water Use Agreement by and between Burley West Investments, L.L.C., an Idaho limited liability company, by and through its manager Joel Parker and Phillip Mai and Verna Mai, recorded September 30, 2019 as Instrument No. 2019-004053.
8. County road right of ways along the east side of Parcel No. 1 and the west and north sides of Parcel No. 3.

EXHIBIT A

PARCEL NO. 1:

**TOWNSHIP 10 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO**

Section 31: Part of the N $\frac{1}{2}$ SE $\frac{1}{4}$, more particularly described as follows:

Beginning at the East $\frac{1}{4}$ Corner of Section 31 in T.10 S., R.22 E., B.M. said corner marked by a U.S. G.L.O. iron pipe with brass cap; Thence South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar which shall be the Point of Beginning;

THENCE South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 1316.60 feet to a $\frac{5}{8}$ inch rebar at the Southeast Corner of the N $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE South 89 degrees 48 minutes 40 seconds West along the south line of the N $\frac{1}{2}$ SE $\frac{1}{4}$ for a distance of 1873.80 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 434.51 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 89 degrees 44 minutes 08 seconds East for a distance of 306.37 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 879.61 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 89 degrees 44 minutes 08 seconds East for a distance of 1570.63 feet to the Point of Beginning.

PARCEL NO. 2:

An access and utility easement for the benefit of Parcel No. 1, more particularly described as follows:

**TOWNSHIP 10 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO**

Section 31: Part of the N $\frac{1}{2}$ SE $\frac{1}{4}$, more particularly described as follows:

Beginning at the East $\frac{1}{4}$ Corner of Section 31 in T.10 S., R.22 E., B.M. said corner marked by a U.S. G.L.O. iron pipe with brass cap which shall be the Point of Beginning;

THENCE South 00 degrees 06 minutes 22 seconds East along the east line of Section 31 for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar;

THENCE South 89 degrees 44 minutes 08 seconds West for a distance of 1570.63 feet to a $\frac{1}{2}$ inch rebar;

THENCE North 00 degrees 14 minutes 43 seconds West for a distance of 20.00 feet to a $\frac{1}{2}$ inch rebar on the north line of the N $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE North 89 degrees 44 minutes 08 seconds East along said $\frac{1}{4}$ section line for a distance of 1570.68 feet to the Point of Beginning.

PARCEL NO. 3:

Section 32: NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, EXCEPT the following described tract:

Beginning at the Northwest corner of said Section 32, said corner marked by a $\frac{5}{8}$ inch rebar with a 3 inch cap on top; thence South 00°02'45" East along the West line of Section 32 for a distance of 1316.58 feet to the Point of Beginning;

Thence South 89°17'29" East for a distance of 48.24 feet to a $\frac{1}{2}$ inch rebar;

Thence South 89°17'29" East for a distance of 328.56 feet to a $\frac{1}{2}$ inch rebar;

Thence South 01°03'22" East for a distance of 262.99 feet to a $\frac{1}{2}$ inch rebar;

Thence South 73°21'33" West for a distance of 136.39 feet to a 1/2 inch rebar;
Thence South 85°31'04" West for a distance of 197.38 feet to a 1/2 inch rebar;
Thence South 85°31'04" West for a distance of 54.06 feet to the West line of Section 32;
Thence North 00°02'45" West along the West line of Section 32 for a distance of 326.32 feet to the Point of Beginning.

PARCEL NO. 4:

Easement for the benefit of Parcel No. 3 as created by Easements and Irrigation Structure Agreement dated April 25, 1994 and recorded April 25, 1994 as Instrument No. 230475 on Film No. 255, records of Cassia County, Idaho, over the following described land:

A twenty-five (25) foot strip adjacent and contiguous on the West of a line beginning at a point on the section line of the SE $\frac{1}{4}$ of Section 29, Township 10 South, Range 22 East, Boise Meridian at the intersection of the section line and the J Canal as the same is now constructed;

Thence South along the section line of said SE $\frac{1}{4}$ and approximately 1,560 feet to the Southeast corner of said SE $\frac{1}{4}$ of Section 29;

Thence continuing South along the section line of the NE $\frac{1}{4}$ of Section 32, Township 10 South, Range 22 East, Boise Meridian approximately 1150 feet;

Thence Southwesterly 2,130 feet, 12.5 feet on each side of that centerline, on, over, across and under the NE $\frac{1}{4}$ of Section 32, Township 10 South, Range 22 East, Boise Meridian to a point on the North boundary of the SE $\frac{1}{4}$ of Section 32, Township 10 South, Range 22 East, Boise Meridian, which point is 1,220 feet West along the North boundary of the SE $\frac{1}{4}$ of Section 32, Township 10 South, Range 22 East Boise Meridian, being the terminus point of the easement.

Rev. 07/18
RECEIVED

NOV 15 2019

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. **83897****RECEIVED**

FEB 20 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION**MINIMUM REQUIREMENTS CHECKLIST**
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) Burley West Investments, L.L.C.**Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.****Yes N/A** * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

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FEB 20 2020

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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NOV 15 2019

DEPT OF WATER RESOURCES
SOUTHERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Burley West Investments, L.L.C. Phone _____
 Mailing address PO Box 5084 Rupert, Idaho 83350 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative John Marshall Phone 208-283-1540
 Mailing address 575 W Bannock St, Ste. B, Boise, ID 83702 Email john@jmarshalllaw.com

- ☒ Send all correspondence for this application to the representative and not to the applicant.
OR
☐ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

[Signature]
 Signature of Applicant or Authorized Representative

JOEL PARKER
 Print Name and Title if applicable

NOV 12/2019
 Date

 Signature of Applicant or Authorized Representative

 Print Name and Title if applicable

 Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
☐ Change nature of use
☐ Add diversion point(s)
☐ Change period of use
☒ Change place of use
☐ Other _____
- Is this a transfer for changes pursuant to Idaho Code § 42-221.0.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
- Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.
Burley West Investments, L.L.C. proposes to change the existing place of use for water rights 45-2509 and 45-13522 to authorize irrigation of 358.6 acres combined within a permissible place of use covering Burley West's farmable property in Sections 31 and 32, Township 10S, Range 22E, which is approximately 360 acres.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	45-2509	4.24 cfs	Irrigation	03/15 to 11/15	Ground water
☒ ☐	45-13522	1.05 cfs	Irrigation	03/15 to 11/15	Ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 4.24 cfs and/or 1,434.4 acre-feet.

2. Total amount of water proposed to be transferred or changed 4.24 cubic feet per second and/or 1,434.4 acre-feet per year.

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
 Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	22E	31													40	6.6			46.6
10S	22E	32					38	40	38	38	38	40			40	40			312.0
Total Acres (for irrigation use)																			358.6

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

No change to existing diversion and distribution system.

- b. Who owns the property at the point(s) of diversion? Burley West Investments, L.L.C.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

There will be no effect on the land currently irrigated. As stated in Part 1A.3, above, this application proposes to change the existing place of use for water rights 45-2509 and 45-13522 to authorize irrigation of 358.6 acres combined within a permissible place of use covering applicant's property in Sections 31 and 32, T10S, R22E.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

None

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 45-2509

Current Owner: BURLEY WEST INVESTMENTS LLC
Priority Date: 11/30/1955
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION

03/15 to 11/15

4.24 CFS

1080 AF

Total Diversion

4.24 CFS

1080 AF

Location of Point(s) of Diversion

GROUND WATER

SW1/4NW1/4SW1/4

Sec. 32,

Twp 10S,

Rge 22E B.M.

CASSIA County

Place of Use

IRRIGATION Within CASSIA County

T10S R22E S31	NESE	41.00	T10S R22E S31	NWSE	5.60
T10S R22E S32	NENW	38.00	T10S R22E S32	NWNW	38.00
T10S R22E S32	SWNW	36.00	T10S R22E S32	SENE	41.00
T10S R22E S32	NESW	37.00	T10S R22E S32	NWSW	40.00
T10S R22E S32	NESE	41.00	T10S R22E S32	NWSE	41.00

Total Acres: 358.6

Conditions of Approval:

1. K01 RIGHT NO. 45-13522 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.
2. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 270 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4. E60 USE OF THIS RIGHT WITH RIGHT NO. 45-13522 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.24 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1434.4 AF.
5. E55 USE OF THIS RIGHT WITH RIGHT NO. 45-13522 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 358.6 ACRES IN A SINGLE IRRIGATION SEASON.
6. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Page 7 of _____

Decreed Date: 5/6/2005

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 45-13522

Current Owner: BURLEY WEST INVESTMENTS LLC
 Priority Date: 3/15/1976
 Origin: Water Right
 Status: Active
 Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.05 CFS	354.4 AF
	<u>Total Diversion</u>	1.05 CFS	354.4 AF

Location of Point(s) of Diversion

GROUND WATER
 CASSIA County

SW1/4NW1/4SW1/4 Sec. 32, Twp 10S, Rge 22E B.M.

Place of Use

IRRIGATION Within CASSIA County

T10S R22E S31	NESE	41.00	T10S R22E S31	NWSE	5.60
T10S R22E S32	NENW	38.00	T10S R22E S32	NWNW	38.00
T10S R22E S32	SWNW	36.00	T10S R22E S32	SENW	41.00
T10S R22E S32	NESW	37.00	T10S R22E S32	NWSW	40.00
T10S R22E S32	NESE	41.00	T10S R22E S32	NWSE	41.00

Total Acres: 358.6

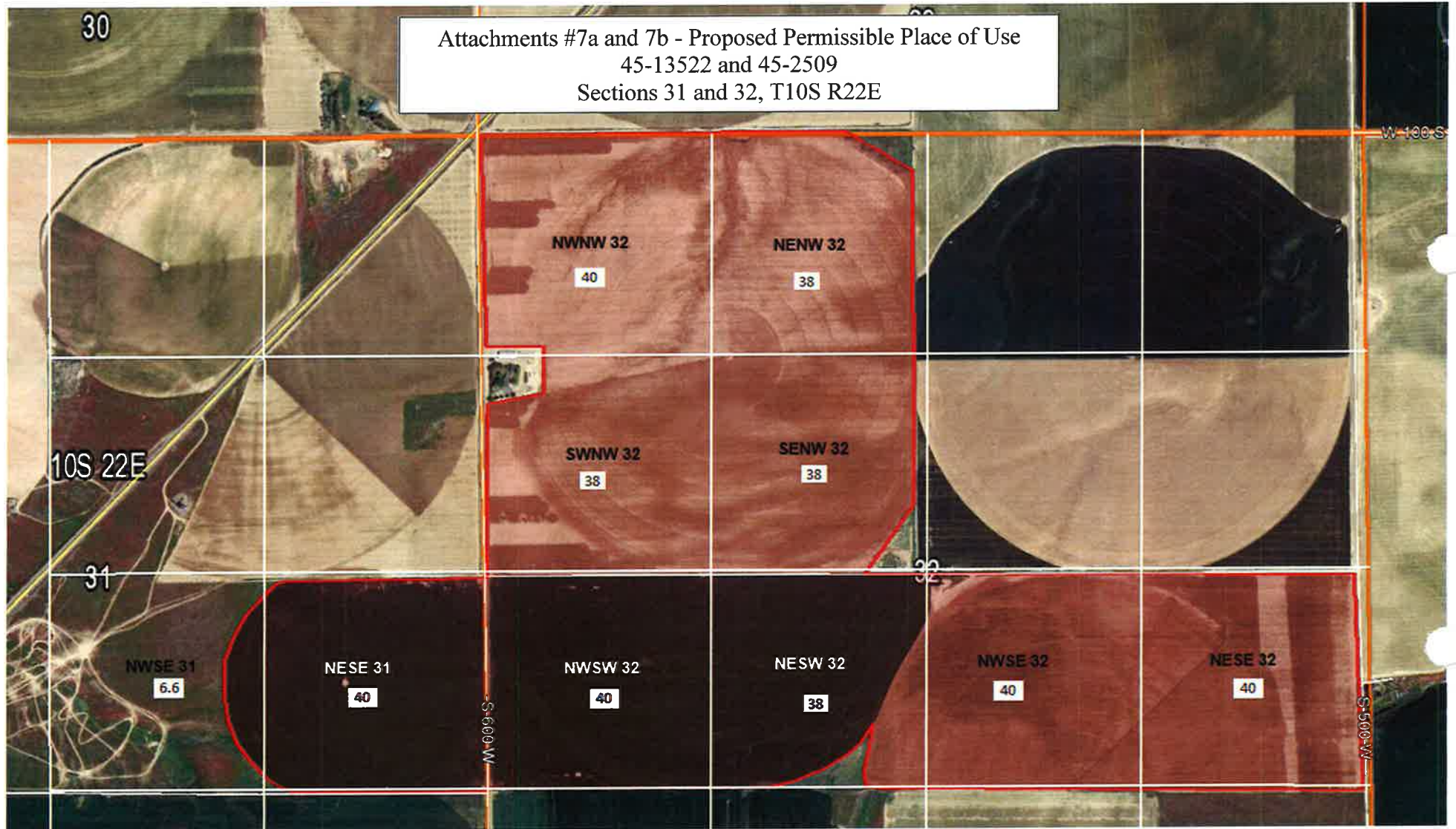
Conditions of Approval:

1. E55 USE OF THIS RIGHT WITH RIGHT NO. 45-2509 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 358.6 ACRES IN A SINGLE IRRIGATION SEASON.
2. E60 USE OF THIS RIGHT WITH RIGHT NO. 45-2509 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.24 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1434.4 AF.
3. K02 THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 45-2509 PURSUANT TO SECTION 42-1426, IDAHO CODE.
4. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 88.6 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. C11 THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE. AS BETWEEN WATER RIGHTS DECREED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY RIGHT IS THE SUPERIOR RIGHT.
6. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
7. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Decreed Date: 5/13/2005

Page ~~6~~ 10

Attachments #7a and 7b - Proposed Permissible Place of Use
45-13522 and 45-2509
Sections 31 and 32, T10S R22E



TRANSFER 83897



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

April 8, 2020

BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO TX 78209-1533

Re: Transfer No: 83897
Water Right No(s): 45-2509, 45-13522

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:

GIVENS PURSLEY LLP
C/O MICHAEL P LAWRENCE
PO BOX 2720
BOISE ID 83701-2720

WATER DISTRICT 140
ADAM MC COY
355 W 500 S
BURLEY ID 83318

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 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.: 83897

Water Right No(s): 45-2509, 45-13522

BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO TX 78209-1533

GIVENS PURSLEY LLP
C/O MICHAEL P LAWRENCE
PO BOX 2720
BOISE ID 83701-2720

WATER DISTRICT 140
ADAM MC COY
355 W 500 S
BURLEY ID 83318



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: March 24, 2020
To: Transfer #83897, Burley West Investments, LLC File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to modify the place of use for irrigation ground water rights 45-2509 and 45-13522, with a combined flow rate of 4.24 cfs, which currently irrigate 358.6 acres located approximately 5.0 to 6.4 miles west and 1.4 to 2.1 miles south of the intersection of Main Street and Overland Avenue in Burley.

The proposed transfer involves modification of lands contiguous to the existing POU, so advertising is not necessary.

The proposed transfer is in Water District 140 and Watermaster comments were solicited. The Watermaster did not provide comment on the transfer.

- **Authority to File:**
The Department's database indicates that water rights 45-2509 and 45-13522 are owned by the applicant, Burley West Investments, LLC. The application was signed by Joel Parker, who is the registered agent of Burley West Investments, LLC, according to documents obtained from the Secretary of State website.
- **Water Right Validity:**
The water rights were all decreed in the SRBA in 2005, and the land appears to be recently irrigated, according to aerial imagery.
- **Injury to Other Water Rights:**
None anticipated or foreseen. Only a slight modification of the POU will occur.
- **Enlargement of Use:**
None anticipated. Volumes and rates will not increase.
- **Local Public Interest:**
No issues anticipated. Because the modification of the POU is to lands contiguous to the existing POU, the transfer was not advertised.
- **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 of the Agricultural Base of the Area:**
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.



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

Brad Little
Governor

Gary Spackman
Director

March 05, 2020

BURLEY WEST FARM LLC
1250 NE LOOP 410 STE 300
SAN ANTONIO TX 78209-1533

Re: Change in Ownership for Water Right No(s): 45-2509 and 45-13522

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of the above referenced water right(s) to you. The Department has modified its records and has enclosed a computer-generated report for you.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please note, water right owners are required to report any change of water right ownership and any change of mailing address to the Department within 120 days of the change. Reporting forms are available from any office of the Department, or from the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 293-9909.

Sincerely,

Jim Bitzenburg
Senior Water Resource Agent

Enclosure(s)

CC: Givens Pursley, LLP; First American Title Co., Burley- File #860902RU; WD-140

Maline, Denise

From: Maline, Denise
Sent: Tuesday, March 03, 2020 11:37 AM
To: Brian Higgs (WD 140)
Subject: Comment Letter for Transfer 83897 (Burley West Investments)
Attachments: Comment letter to WD140 for 83897.docx

Hi Brian,

The Department is currently processing the above referenced Application for Transfer, located within Water District 140. Attached is a cover letter and recommendation form with more detailed information. Please review the application and provide any necessary comments within 21 days.

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

Thank you,

Denise @ IDWR

Denise Maline
Administrative Assistant I
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 293-9908
denise.maline@idwr.idaho.gov



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

Brad Little
Governor

Gary Spackman
Director

March 3, 2020

BRIAN HIGGS
355 W 500 S
BURLEY, ID 83318

RE: Transfer No. 83897 (Water Right No(s): 45-2590, 45-13522)

Dear Brian:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant 1

Enclosure(s)

Bitzenburg, James

From: John Marshall <john@jmarshalllaw.com>
Sent: Tuesday, February 25, 2020 1:47 PM
To: Bitzenburg, James
Subject: Re: Burley West Investments, LLC Application for Transfer of Water Right

James, you are correct. The PO Box is 584. Thank you,

John

On Fri, Feb 21, 2020 at 4:05 PM Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov> wrote:

John-

I am processing the Application for Transfer of Water Right that you submitted on behalf of Burley West Investments, LLC, which our office received yesterday. I am data entering the information on the application, and the address for Burley West is shown as PO Box 5084, Rupert, ID 83350. Our records show the address as PO Box 584. I am assuming that our records are correct, as the listing for the LLC with the Secretary of State's office shows PO Box 584. Let me know which is correct, and I will head in that direction. Thanks.

Jim

Jim Bitzenburg

Water Resource Agent

Idaho Department of Water Resources

Southern Regional Office

Phone (208)-736-3033

james.bitzenburg@idwr.idaho.gov

MEMORANDUM

Date: February 24, 2020
To: Transfer 83897
From: Jim Bitzenburg
Re: Legal Notice Not Required

Legal Notice Not Required
2/24/2020

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

The proposed transfer involves modification of lands contiguous to the existing POU, so advertising is not necessary.

TRANSFER SYNOPSIS

Date: February 24, 2020
To: Transfer 83897, Burley West Investments, LLC Transfer file
From: Jim Bitzenburg
Re: Summary of transfer

Application for transfer proposes to modify the place of use for irrigation ground water rights 45-2509 and 45-13522, with a combined flow rate of 4.24 cfs, which currently irrigate 358.6 acres located approximately 5.0 to 6.4 miles west and 1.4 to 2.1 miles south of the intersection of Main Street and Overland Avenue in Burley.

The proposed transfer involves modification of lands contiguous to the existing POU, so advertising is not necessary.

The proposed transfer is in Water District 140 and Watermaster comments will be solicited.

Water rights involved in the transfer are:

45-2509	4.24 cfs	270.0 acre limit	POU acres 358.6	Volume	1080.0 AF
45-13522	1.05 cfs	88.6 acre limit	POU acres 358.6	Volume	354.4 AF
Combined limits: 4.24 cfs, 1434.4 AF, and 358.6 acres					

FEE MEMORANDUM

Date: February 24, 2020
To: Burley West Investments, LLC Transfer #83897 File
From: Jim Bitzenburg
Re: Receipting/disposition of fees paid

This transfer was filed on February 20, 2020 and the purpose of the transfer is to slightly modify the place of use for two ground water irrigation rights west of Burley. There are 6.0 acres being changed, so $6.0/358.6$ (combined limit of the two rights) $\times 4.24$ cfs (combined diversion rate) = 0.07 cfs, which is the rate to base the fee upon. The fee for that flow rate, from the Transfer Fee Schedule, is \$200.00, which was paid by the representative, John Marshall Law, PLLC with check 1416 on the date the application was filed. The IDWR receipt number is S037779.



0003657211

**STATE OF IDAHO***Office of the secretary of state, Lawrence Denney***ANNUAL REPORT**

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0003657211

Date Filed: 10/29/2019 2:13:08 PM

Entity Name and Mailing Address:

BURLEY WEST INVESTMENTS, L.L.C.

The file number of this entity on the records of the Idaho Secretary of State is: 0000077103

Address

PO BOX 584
RUPERT, ID 83350-0584

Entity Details:

Entity Status

Active-Existing

This entity is organized under the laws of:

IDAHO

If applicable, the old file number of this entity on the records of the Idaho Secretary of State was: W21180

The registered agent on record is:

Registered Agent

JOEL PARKER
Registered Agent
Physical Address
107 W PECK RD
RUPERT, ID 83350
Mailing Address

Limited Liability Company Managers and Members

Name	Title	Business Address
JOEL PARKER	Manager	PO BOX 584 RUPERT, ID 83350

The annual report must be signed by an authorized signer of the entity.

Joel Parker

Sign Here

10/29/2019

Date

Signer's Title: Manager

B0390-7817 10/29/2019 2:13 PM Received by ID Secretary of State Lawrence Denney

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

phone 208-991-2701
fax 208-906-8043
john@jmarshalllaw.com

February 18, 2020

Corey Skinner
Idaho Department of Water Resources
Southern Region
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858

RECEIVED

FEB 20 2020

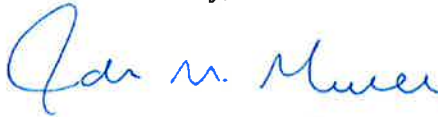
DEPT OF WATER RESOURCES
SOUTHERN REGION

Re: Burley West Transfer Application

Corey:

Enclosed please find an amended Application for Transfer in the name of Burley West, L.L.C. along with the application fee of \$200.00. Please contact me should you have any questions.

Sincerely,



John M. Marshall

cc: client