

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 83535

This is to certify that: MC FARLAND LIVESTOCK CO INC
C/O THAYNE KAUER
PO BOX 50
LEMHI, ID 83465-0050

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

| Water Right | Origin/Basis | Priority Date | Diversion Rate | Diversion Volume | Acre Limit | Total Acres | Source |
|-------------|--------------|---------------|----------------|------------------|------------|-------------|-------------|
| 74-1556 | WR/DECREED | 3/21/1889 | 1.76 cfs | 205 af | N/A | 58.7 | LEMHI RIVER |
| 74-1562 | WR/DECREED | 4/1/1936 | 4.060 cfs | N/A | 121.5 | 122.0 | LEMHI RIVER |

Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|----------------|-------|-----|-----|---------|---------------|---------------|
| 74-1556 | NO | NO | YES | NO | NO | NO |
| 74-1562 | NO | NO | YES | NO | NO | NO |

Summary Of Water Rights After the Approved Change

| Existing Right | New No. (Changed Portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|------------------------|---------------------------|------------------|-----------------|--------------|--------------|-----------------------------|----------------|------------------|----------------------|-----------------------|
| 74-1556 | 74-1556 | 1.760 cfs | 205.0 af | 58.7 | 177.2 | N/A | N/A | N/A | N/A | N/A |
| 74-1562 | 74-1562 | 4.060 cfs | N/A | 121.5 | 177.2 | N/A | N/A | N/A | N/A | N/A |
| COMBINED TOTALS | | 5.820 cfs | N/A | 177.2 | 177.2 | | 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 31st day of March, 2020



Regional Manager

Support Data
In File # 74-1556

Transfer No. 83535

WATER RIGHT NO. 74-1556**As Modified by Transfer No. 83535**

In accordance with the approval of Transfer No. 83535, Water Right No. 74-1556 is now described as follows:

Right Holder: MC FARLAND LIVESTOCK CO INC
C/O THAYNE KAUER
PO BOX 50
LEMHI, ID 83465-0050

Priority Date: 3/21/1889

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION

From

03/15

To

to 11/15

Diversion Rate

1.760 cfs

1.760 cfs

Diversion Volume

205.0 af

205.0 af

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER

NWNW

Sec 24 Twp 17N Rge 24E LEMHI 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 | |
| 17N | 24E | 14 | | 0.1 | 18.0 | | 12.0 | 25.0 | 17.0 | 39.0 | 26.6 | 1.2 | | 0.3 | | 21.0 | 17.0 | | 177.2 |

Right Acre Limit: 58.7

POU Total Acres: 177.2

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of a specific 58.7 acres within the 177.2 acre place of use authorized by this right in a single irrigation season. The specific 58.7 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 58.7 acres to be irrigated within the 177.2 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
2. Rights 74-1556 and 74-1562 when combined shall not exceed the irrigation of 177.2 acres.
3. The portion of Right 74-1556 used for conveyance losses is 0.59 cfs.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74.

Transfer No. 83535

WATER RIGHT NO. 74-1556
As Modified by Transfer No. 83535

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. Water is delivered through L-46A.
7. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
9. This right does not grant any right-of-way or easement across the land of another.
10. The place of use does not include federal land.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-1562

As Modified by Transfer No. 83535

In accordance with the approval of Transfer No. 83535, Water Right No. 74-1562 is now described as follows:

Right Holder: MC FARLAND LIVESTOCK CO INC
C/O THAYNE KAUER
PO BOX 50
LEMHI, ID 83465-0050

Priority Date: 4/1/1936

Source: LEMHI RIVER

Tributary: SALMON RIVER

BENEFICIAL USE

IRRIGATION

From

03/15

To

to 11/15

Diversion Rate

4.060 cfs

4.060 cfs

LOCATION OF POINT(S) OF DIVERSION

LEMHI RIVER

SWNWNW

Sec 24 Twp 17N Rge 24E LEMHI 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 | |
| 17N | 24E | 14 | | 0.1 | 18.0 | | 12.0 | 25.0 | 17.0 | 39.0 | 26.6 | 1.2 | | 0.3 | | 21.0 | 17.0 | | 177.2 |

Right Acre Limit: 121.5

POU Total Acres: 177.2

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 121.5 acres within the authorized place of use in a single irrigation season.
2. Rights 74-1556 and 74-1562 when combined shall not exceed the irrigation of 177.2 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. 74.
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 3.5 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 83535

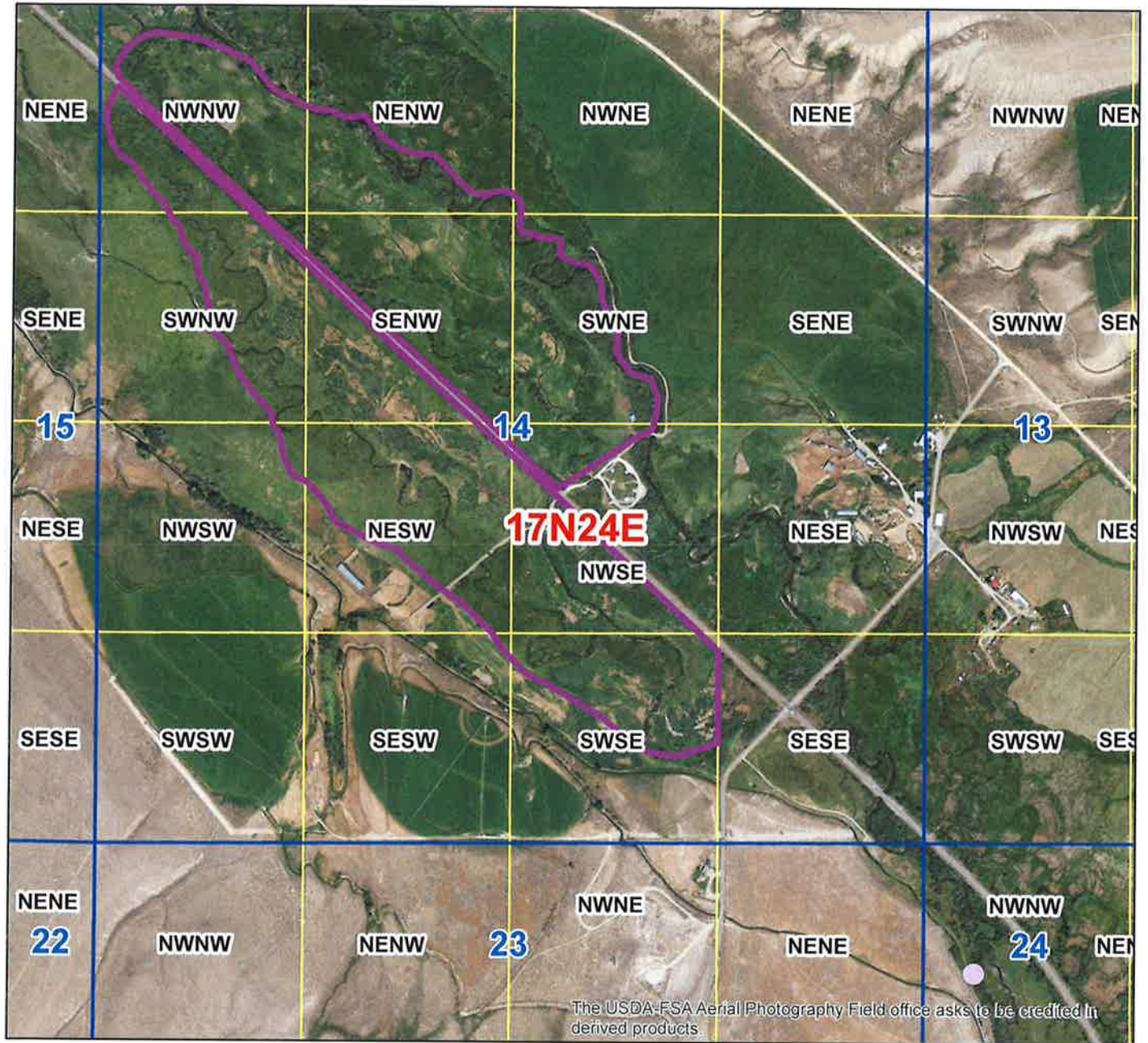
WATER RIGHT NO. 74-1562
As Modified by Transfer No. 83535

CONDITIONS OF APPROVAL

6. Water is delivered through L-46A.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
8. Diversion of Lemhi River at L-46A is limited to those times water is available for diversion under this right and priority from the original point of diversion L-52, in T17N, R25E, section 33 NESW.
9. This right does not grant any right-of-way or easement across the land of another.
10. The place of use does not include federal land.
11. The right holder shall accomplish the change authorized by this transfer within one year(s) of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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.

Attachment to Transfer Approval 83535

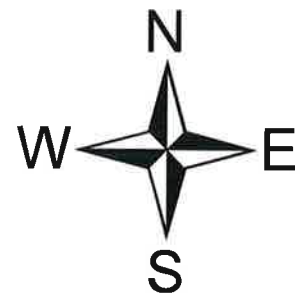
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 600 1,200 2,400 Feet



Date: 3/31/2020



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 • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 31, 2020

MC FARLAND LIVESTOCK CO INC
C/O THAYNE KAUER
PO BOX 50
LEMHI ID 83465-0050

Re: Transfer No: 83535
Water Right No(s): 74-1556, 74-1562

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) 525-7161.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CA dh', is positioned above the printed name.

Christina Henman
Administrative Assistant

Enclosure

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 March 31, 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.: 83535
Water Right No(s): 74-1556, 74-1562

MC FARLAND LIVESTOCK CO INC
C/O THAYNE KAUER
PO BOX 50
LEMHI ID 83465-0050



Christina Henman
Administrative Assistant