

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83441**

This is to certify that: **MISTY VALLEY LLC**  
970 W BROADWAY STE E # 446  
PO BOX 30000  
JACKSON, WY 83001

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>
35-2568	WR/DECREED	3/20/1959	4.980 cfs	1939.5 af	483.1	593.1	GROUND WATER

**Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)**

<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>
35-7769	WR/DECREED	1/24/1978	2.220 cfs	N/A		592.1	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>
35-2568	YES	YES	YES	NO	YES	YES

**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>
35-2568	22-14350	0.010 cfs	2.5 af	N/A	N/A	35-2568	4.970 cfs	1928.4 af	482.1	592.1
<b>COMBINED TOTALS</b>		0.010 cfs	2.5 af	N/A	N/A		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 28<sup>th</sup> day of January, 2020.



Regional Manager

Transfer No. 83441

**Support Data  
In File # 35-2568**

**WATER RIGHT NO. 35-2568**  
**As Modified by Transfer No. 83441**

In accordance with the approval of Transfer No. 83441, Water Right No. 35-2568 is now described as follows:

**Right Holder:** JENNIFER COOK AND  
TODD COOK  
796 N 1800 W  
BLACKFOOT, ID 83221

**Priority Date:** 3/20/1959

**Source:** GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	4/01	to 10/31	4.970 cfs	1928.4 af
			4.970 cfs	1928.4 af

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

GROUND WATER	NENENW	Sec 24 Twp 01S Rge 32E BINGHAM County
GROUND WATER	SWSE	Sec 24 Twp 01S Rge 32E BINGHAM County

**PLACE OF USE: IRRIGATION**

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	32E	24	30.5	36.3	36.0	30.4	40.0	40.0	40.0	39.3	39.3	40.0	40.0	40.0	30.3	36.6	36.2	37.2	592.1

Right Acre Limit: 482.1  
POU Total Acres: 592.1

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 482.1 acres within the authorized place of use in a single irrigation season.
2. Rights 35-2568 and 35-7769 when combined shall not exceed a total annual maximum diversion volume of 2368 af at the field headgate and the irrigation of 592.1 acres.
3. Diversion of water from the additional well authorized under Transfer 81535 located in the SWSE, Sec. 24, T01S, R32E shall not exceed a total combined maximum diversion rate of 3.00 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. 120.
5. Prior to diversion and use of water under Transfer approval 81535, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.

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**WATER RIGHT NO. 35-2568**  
**As Modified by Transfer No. 83441**

**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. 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.
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 Section 42-1412(6), Idaho Code, 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. 22-14350**  
**As Modified by Transfer No. 83441**

In accordance with the approval of Transfer No. 83441, Water Right No. 22-14350 is now described as follows:

**Right Holder:** JENNIFER COOK AND  
TODD COOK  
796 N 1800 W  
BLACKFOOT, ID 83221

**Priority Date:** 3/20/1959

**Source:** GROUND WATER

<b>BENEFICIAL USE</b>	<b>From</b>	<b>To</b>	<b>Diversion Rate</b>	<b>Diversion Volume</b>
AESTHETIC STORAGE	1 /1	to 12/31		2.5 af
DIVERSION TO STORAGE	4 /1	to 10/31	0.010 cfs	
FIRE PROTECTION STORAGE	1 /1	to 12/31		2.5 af
			0.010 cfs	2.5 af

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

GROUND WATER L4 (SENW) Sec 3 Twp 06N Rge 39E MADISON County

**PLACE OF USE: AESTHETIC STORAGE**

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	39E	3								X				X					0.0
										L 4									

**PLACE OF USE: FIRE PROTECTION STORAGE**

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	39E	3								X				X					0.0
										L 4									

**CONDITIONS OF APPROVAL**

1. The ponds established by the storage of water under this right shall not exceed a total surface area of 1.4 acres.
2. This right authorizes a total annual storage volume of 2.5 acre-feet to be used for the replacement of losses caused by evaporation.
3. The initial fill and any subsequent refilling of the ponds must occur through the IWRB Water Supply Bank or the Water District 1 Rental Pool.

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**WATER RIGHT NO. 22-14350**  
**As Modified by Transfer No. 83441**

**CONDITIONS OF APPROVAL**

4. The right holder shall install and maintain an impermeable liner in the ponds to eliminate seepage losses.
5. Water shall not be diverted from fire protection storage except to fight or repel an existing fire.
6. 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. 100.
7. Prior to diversion and use of water under Transfer approval 83441, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.
8. 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.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
10. This right does not grant any right-of-way or easement across the land of another.
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 Section 42-1412(6), Idaho Code, 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. 35-7769**  
**As Modified by Transfer No. 83441**

In accordance with the approval of Transfer No. 83441, Water Right No. 35-7769 is now described as follows:

**Right Holder:** JENNIFER COOK AND  
TODD COOK  
796 N 1800 W  
BLACKFOOT, ID 83221

**Priority Date:** 1/24/1978

**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>
IRRIGATION	4/01	to 11/01	2.220 cfs
			2.220 cfs

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

GROUND WATER	NENENW	Sec 24 Twp 01S Rge 32E BINGHAM County
GROUND WATER	SWSE	Sec 24 Twp 01S Rge 32E BINGHAM 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	
01S	32E	24	30.5	36.3	36.0	30.4	40.0	40.0	40.0	39.3	39.3	40.0	40.0	40.0	30.3	36.6	36.2	37.2	592.1

POU Total Acres: 592.1

**CONDITIONS OF APPROVAL**

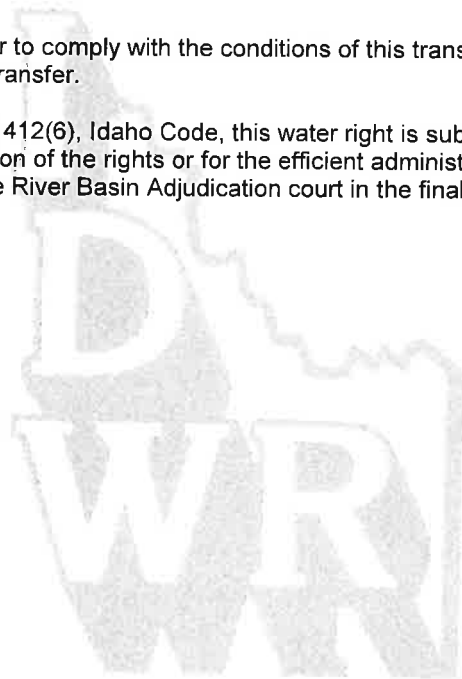
1. Rights 35-2568 and 35-7769 when combined shall not exceed a total annual maximum diversion volume of 2368 af at the field headgate and the irrigation of 592.1 acres.
2. Diversion of water from the additional well authorized under Transfer 81535 located in the SWSE, Sec. 24, T01S, R32E shall not exceed a total combined maximum diversion rate of 3.00 cfs.
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. 120.
4. Prior to diversion and use of water under Transfer approval 81535, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.
5. 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.

Transfer No. 83441

**WATER RIGHT NO. 35-7769**  
**As Modified by Transfer No. 83441**

**CONDITIONS OF APPROVAL**

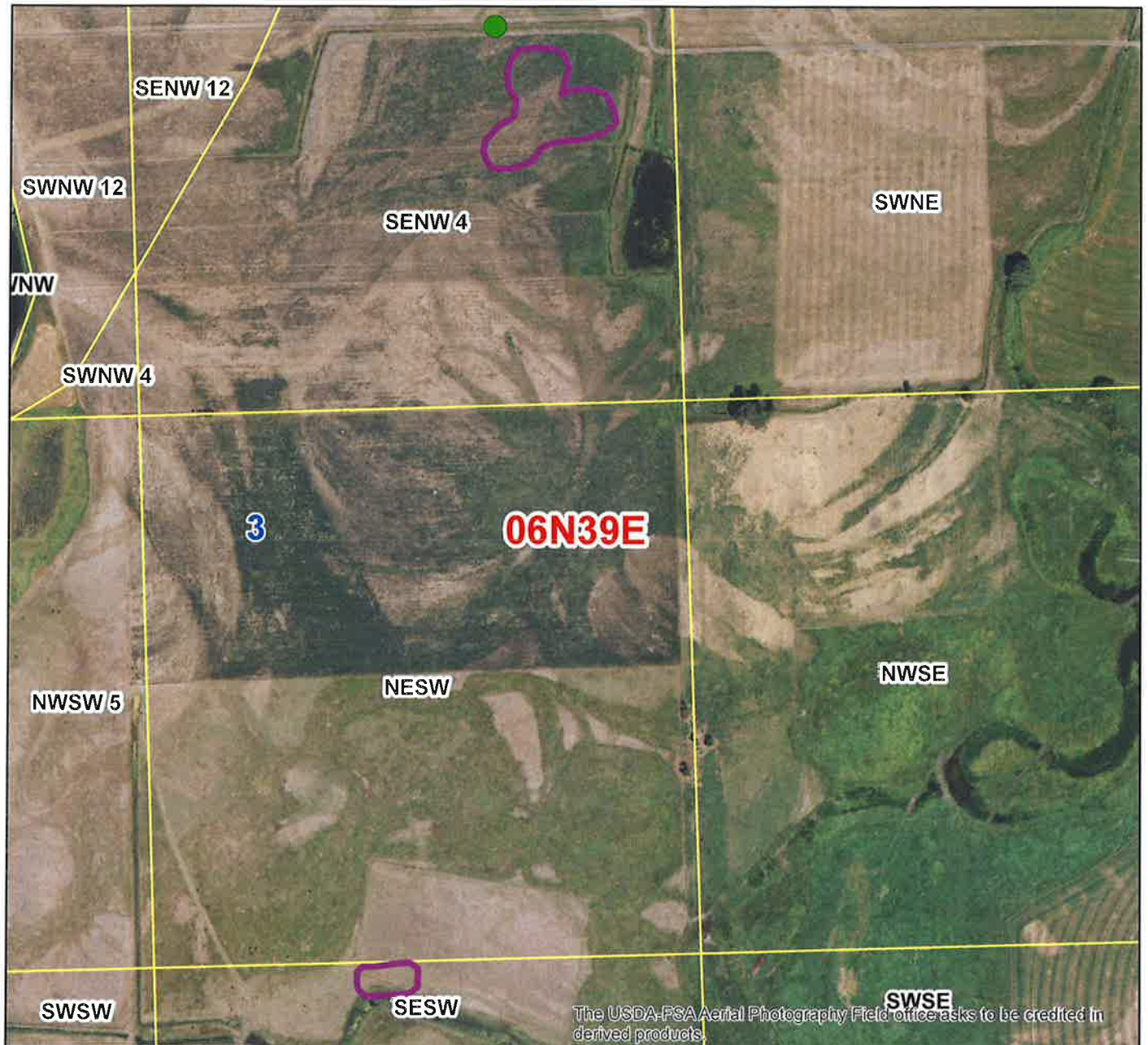
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
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 Section 42-1412(6), Idaho Code, 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 83441

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

0 250 500 1,000 Feet



Date: 1/28/2020





**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

January 28, 2020

MISTY VALLEY LLC  
970 W BROADWAY STE E 446  
PO BOX 30000  
JACKSON WY 83001

Re: Transfer No: 83441  
Water Right No(s): 35-2568, 35-7769

**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.

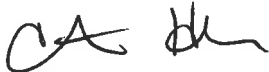
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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



Christina Henman  
Administrative Assistant

Enclosure

CC:  
ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC  
C/O KRISTIN MOORE  
482 CONSTITUTION WAY STE 303  
IDAHO FALLS ID 83402-3552

JENNIFER COOK  
TODD COOK  
796 N 1800 W  
BLACKFOOT ID 83221

AXA EQUITABLE LIFE INSURANCE CO  
C/O AXA EQUITABLE AGRIFINANCE LLC  
6300 C STREET SW  
CEDAR RAPIDS IA 52499-0001

## 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 January 28, 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.: 83441**  
**Water Right No(s): 35-2568, 35-7769**

**MISTY VALLEY LLC**  
**970 W BROADWAY STE E 446**  
**PO BOX 30000**  
**JACKSON WY 83001**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC**  
**C/O KRISTIN MOORE**  
**482 CONSTITUTION WAY STE 303**  
**IDAHO FALLS ID 83402-3552**

**JENNIFER COOK**  
**TODD COOK**  
**796 N 1800 W**  
**BLACKFOOT ID 83221**

**AXA EQUITABLE LIFE INSURANCE CO**  
**C/O AXA EQUITABLE AGRIFINANCE LLC**  
**6300 C STREET SW**  
**CEDAR RAPIDS IA 52499-0001**



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