

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83767**

This is to certify that: FISH HAVEN WATER USERS CO  
1917 HIGHWAY 89  
FISH HAVEN, ID 83287-5127

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>
11-4022	WR/STATUTORY CLAIM	5/18/1871	29.600 cfs	N/A	N/A	1212.0	FISH HAVEN CREEK, SPRING

**Purpose of Transfer (Changes Proposed)**

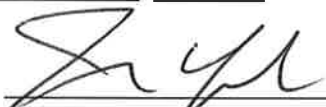
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
11-4022	NO	NO	YES	NO	YES	YES

**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>
11-4022	11-4022	29.600 cfs	N/A	N/A	1,132	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>29.600 cfs</b>	<b>N/A</b>	<b>N/A</b>	<b>1,132</b>		<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 17<sup>th</sup> day of January, 2020.

  
Regional Manager

**WATER RIGHT NO. 11-4022**  
**As Modified by Transfer No. 83767**

In accordance with the approval of Transfer No. 83767, Water Right No. 11-4022 is now described as follows:

**Right Holder:** FISH HAVEN WATER USERS CO  
 1917 HIGHWAY 89  
 FISH HAVEN, ID 83287-5127

**Priority Date:** 5/18/1871

**Source:** FISH HAVEN CREEK  
**Source:** SPRING

**Tributary:** BEAR LAKE  
**Tributary:** FISH HAVEN CREEK

<b>BENEFICIAL USE</b>	<b>From</b>	<b>To</b>	<b>Diversion Rate</b>	<b>Diversion Volume</b>
IRRIGATION	04/15	to 10/31	27.650 cfs	
MUNICIPAL	04/15	to 10/31	1.950 cfs	110.0 af
MITIGATION	04/15	to 10/31	4.510 cfs	
MITIGATION	04/15	to 10/31	2,310 cfs	130.4 af
MUNICIPAL	04/15	to 10/31	2,310 cfs	130.4 af
			29.600 cfs	

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

FISH HAVEN CREEK	NWSW	Sec 14 Twp 16S Rge 43E	BEAR LAKE County
FISH HAVEN CREEK	NWNESE	Sec 15 Twp 16S Rge 43E	BEAR LAKE County
FISH HAVEN CREEK	NENWSE	Sec 15 Twp 16S Rge 43E	BEAR LAKE County
FISH HAVEN CREEK	SWNWNE	Sec 16 Twp 16S Rge 43E	BEAR LAKE County
SPRING	SWNWNE	Sec 16 Twp 16S Rge 43E	BEAR LAKE County
FISH HAVEN CREEK	NWSENE	Sec 16 Twp 16S Rge 43E	BEAR LAKE County

**PLACE OF USE: MITIGATION**

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	43E	14														X			
																L 3			0

**CONDITIONS OF APPROVAL**

- Transfers 72318 and 79903 authorize a portion of water right 11-4022 for mitigation use in the maximum amount of 4.51 cfs and 184.7 irrigated acres. Irrigation use under this right will be reduced proportionately to the mitigation use associated with the domestic and commercial uses of Permits 11-7481, 11-7491 and 11-7796 during the development period of the Permits. The official record for this water right will be changed upon determination of the extent of beneficial use developed and subsequently licensed under Permits 11-7481, 11-7491, and 11-7796 to show the specific rate and acres permanently removed from irrigation use that will be dedicated solely to mitigation use.

Transfer No. 83767

**WATER RIGHT NO. 11-4022**  
**As Modified by Transfer No. 83767**

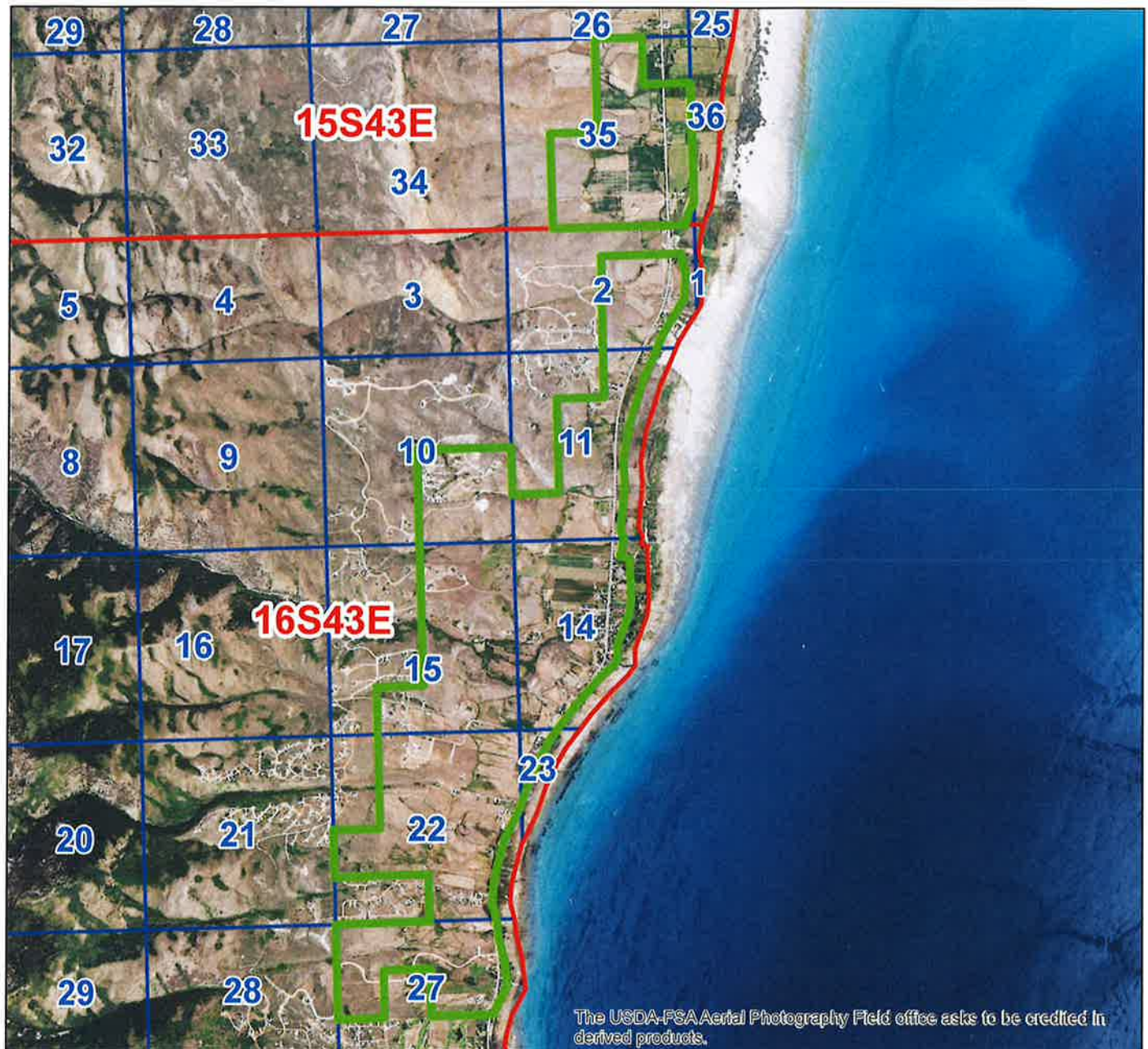
**CONDITIONS OF APPROVAL**

2. Mitigation use under this right for water rights 11-7481, 11-7491 and 11-7796 is subject to the continued adherence to the provisions of the water management and operation plan required under those water rights.
3. Transfer 83767 authorizes a portion of this water right (2.31 cfs. 130.4 afa) to be used to supply municipal water and/or mitigate for future development of up to 100 connections within the Fish Haven Pipeline Company system. Irrigation use under this right will be reduced proportionately to the municipal/mitigation use developed within the Fish Haven Pipeline Company system. The record for this water right will be changed to show the specific rate and acres permanently removed from irrigation use at the time the Department conducts a licensing review for Permit 11-7847.
4. Water associated with the mitigation use will continue to be diverted into the Fish Haven Water Users Company's delivery system, however the portion identified for mitigation purposes shall be conveyed to Bear Lake, and irrigation use under this right shall be proportionately reduced.
5. This right is limited to the irrigation of 1,132 acres within the authorized place of use in a single irrigation season. The total number of irrigated acres will be reduced in proportion to the development occurring under Permits 11-7481, 11-7491, 11-7796 and 11-7847.
6. Municipal place of use is within the area served by the public water supply system of Fish Haven Pipeline Company and is generally located within Sections 14, 15, 22, 23 and 27, T16S, R43E.
7. Irrigation place of use is within the area served by Fish Haven Water Users Company.
8. The boundaries encompassing the irrigation and municipal places of use for this water right are described with digital boundaries as authorized by Idaho law. The data comprising the digital boundaries are stored in the electronic document management system of the Department and are incorporated into this approval by this reference.
9. A map generally depicting the municipal and irrigation service areas for this water right at the time of this approval is attached to this document for illustrative purposes.
10. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 11.
11. 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).
12. 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 lands served by Fish Haven Water Users Company.
13. Approval of this transfer does not confirm the validity of this water right.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

# Attachment to Transfer Approval 83767

Fish Haven Water Users Company

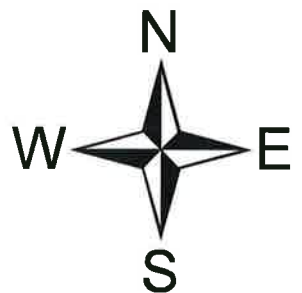
This map depicts the IRRIGATION place of use boundary at the time of this transfer approval.



## Legend

- FHWUA\_Irrigation
- Water Right POU
- Township/Range
- Sections

0 0.5 1 2 Miles



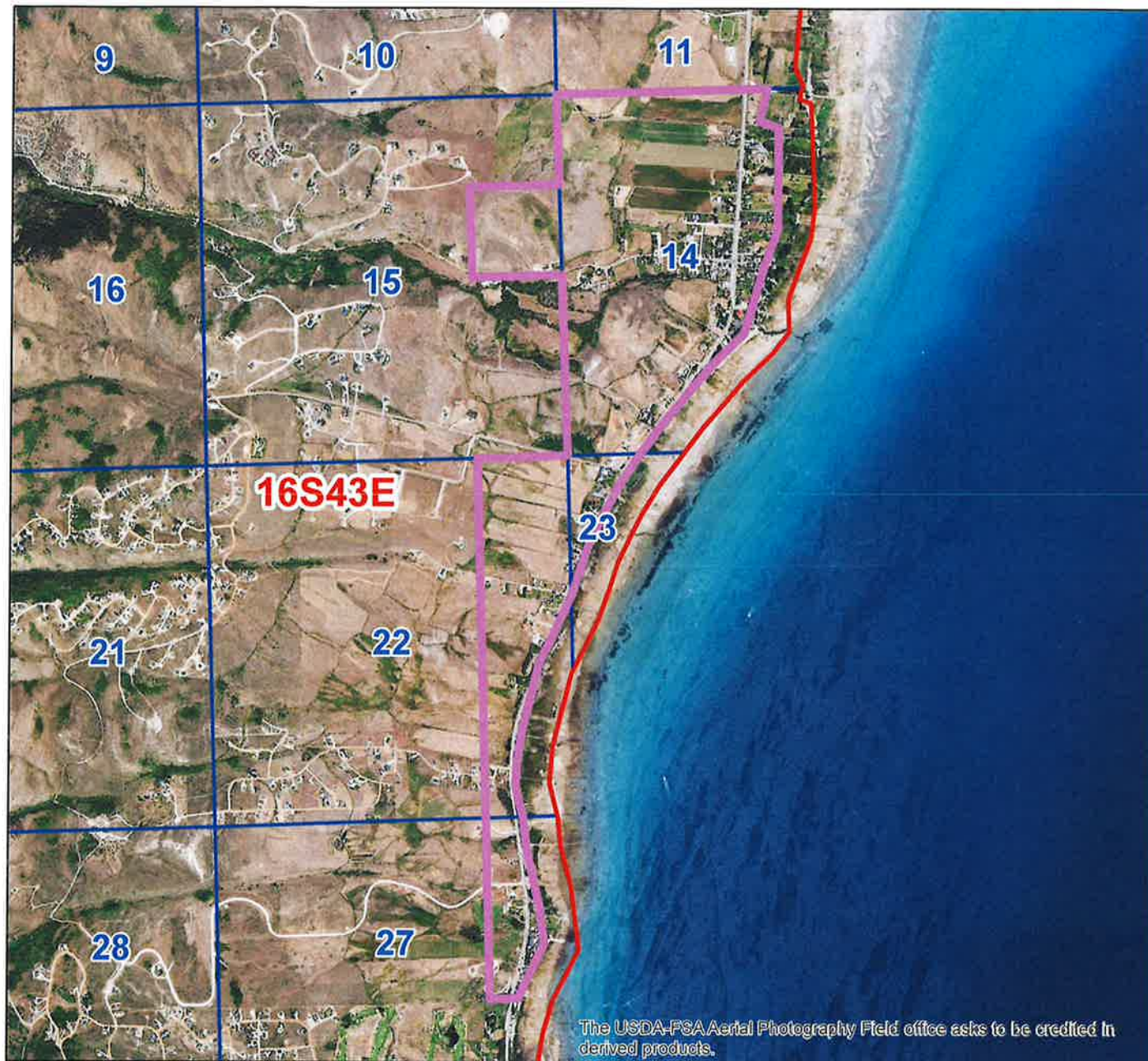
Date: 1/17/2020



# Attachment to Transfer Approval 83767

Fish Haven Water Users Company

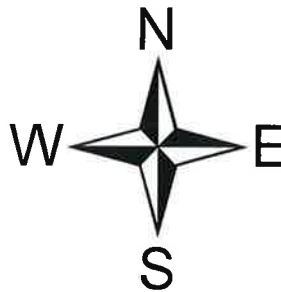
This map depicts the MUNICIPAL place of use boundary at the time of this transfer approval.



## Legend

-  FHWUC\_Municipal
-  Water Right POU
-  Township/Range
-  Sections

0 0.25 0.5 1 Miles



Date: 1/17/2020



**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 17, 2020

FISH HAVEN WATER USERS CO  
1917 HIGHWAY 89  
FISH HAVEN ID 83287-5127

Re: Transfer No: 83767  
Water Right No(s): 11-4022

**Transfer Approval Notice**

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.


ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH' followed by a stylized flourish.

Christina Henman  
Administrative Assistant

Enclosure

CC:

RANDALL C BUDGE  
PO BOX 1391  
POCATELLO ID 83204-1391

## **EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER**

**(To be used in connection with actions when a hearing was held)**

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and brief as further described below:**

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

### **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, request 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 Rules of Procedure 302 and 303.

### **FINAL ORDER**

The Department 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 17, 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.: 83767  
Water Right No(s): 11-4022**

**FISH HAVEN WATER USERS CO  
1917 HIGHWAY 89  
FISH HAVEN ID 83287-5127**

**RANDALL C BUDGE  
PO BOX 1391  
POCATELLO ID 83204-1391**



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**Christina Henman  
Administrative Assistant**