

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83369**

This is to certify that: WEST CACHE IRRIGATION CO  
C/O ED COTTLE  
1207 S 400 E  
TRENTON, UT 84338

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>
13-974	WR/DECREED	9/12/1899	186.000 cfs	N/A	N/A	N/A	BEAR RIVER

**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>
13-974	NO	NO	NO	YES	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>
13-974	13-974	186.000 cfs	N/A	N/A	14832.0	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		N/A	N/A	N/A	<b>14832.0</b>		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 14<sup>th</sup> day of January, 2020.

  
Regional Manager

Transfer No. 83369

**WATER RIGHT NO. 13-974**  
**As Modified by Transfer No. 83369**

In accordance with the approval of Transfer No. 83369, Water Right No. 13-974 is now described as follows:

**Right Holder:** WEST CACHE IRRIGATION CO  
C/O ED COTTLE  
1207 S 400 E  
TRENTON, UT 84338

**Priority Date:** 9/12/1899

**Source:** BEAR RIVER

**Tributary:** GREAT SALT LAKE

**BENEFICIAL USE**  
IRRIGATION

**From**  
4/20

**To**  
to 09/30

**Diversion Rate**  
186.000 cfs  
186.000 cfs

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

BEAR RIVER	NWNE	Sec 30 Twp 13N Rge 01W CACHE UT County
BEAR RIVER	SESW	Sec 25 Twp 14S Rge 39E FRANKLIN County
BEAR RIVER	SWSE	Sec 34 Twp 15N Rge 01W CACHE UT County

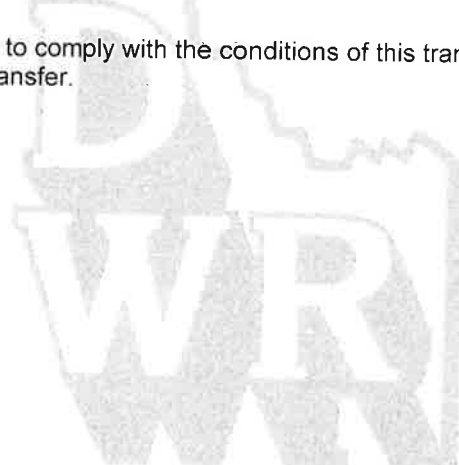
**CONDITIONS OF APPROVAL**

1. 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. 11.
2. 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).
3. Place of use is within the area served by West Cache Irrigation Company. Place of use in Idaho is located within Sec 19, 20, 29 and 30, T15S, R39E; Sec 4, 5, 17, 19, 20, 29 and 30, T16S, R39E, B.M.
4. The authorized place of use for this right includes acres in Utah. The place of use in Utah is located within Sec 34 and 35, T15N, R01W; Sec 3-4, 9-11, 15-16, 21-23, 25-28, and 33-36, T14N, R01W; Sec 1-3, 10-16, 19-30 and 32-36, T13N, R01W; Sec 5-8, 18-19 and 30, T13N, R01E; Sec 1-4, 11 and 12, T12N, R01W; S.L.M.
5. Two of the authorized points of diversion are located in Utah: SWSE, Sec 34, T15N, R01W (Cornish Pumps); NWNE, Sec 30, T13N, R01W (Cutler Pump).
6. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from the Bear River (SESW, Sec 25, T14S, R39E).

**WATER RIGHT NO. 13-974**  
**As Modified by Transfer No. 83369**

**CONDITIONS OF APPROVAL**

7. The water diverted from all of the points of diversion authorized under this right shall not exceed an instantaneous diversion rate of 186 cfs or the irrigation of 14,832 acres.
8. The point of diversion located in NWNE, Sec 30, T13N, R01W (Cutler Reservoir Pump), added through Transfer 83369, is limited to a maximum diversion rate of 12 cfs.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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.





**State of Idaho**

**DEPARTMENT OF WATER RESOURCES**

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

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**BRAD LITTLE**  
Governor

**GARY SPACKMAN**  
Director

January 14, 2020

WEST CACHE IRRIGATION CO  
C/O ED COTTLE  
1207 S 400 E  
TRENTON UT 84338

Re: Transfer No: 83369  
Water Right No(s): 13-974

**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

## **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 14, 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.: 83369**  
**Water Right No(s): 13-974**

**WEST CACHE IRRIGATION CO**  
**C/O ED COTTLE**  
**1207 S 400 E**  
**TRENTON UT 84338**

A handwritten signature in black ink, appearing to read 'CH', is written over a horizontal line.

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