

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83062**

This is to certify that: CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST #397  
BOISE, ID 83702

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>
65-1131A	WR/DECREED	10/5/1875	0.260 cfs	N/A	N/A	13.0	PAYETTE RIVER
65-12721	WR/DECREED	7/19/1984	0.600 cfs	6.0 af	N/A	N/A	PAYETTE RIVER
65-22350	WR/LICENSE	3/9/2001	0.110 cfs	N/A	N/A	3.5	PAYETTE RIVER

**Purpose of Transfer (Changes Proposed)**

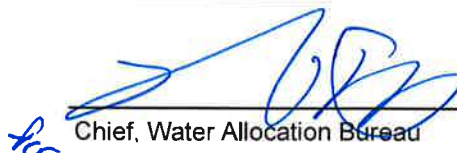
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-1131A	NO	NO	NO	YES	NO	NO
65-12721	NO	NO	NO	YES	NO	NO
65-22350	NO	NO	NO	YES	NO	NO

**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>
65-1131A	65-1131A	0.260 cfs	N/A	N/A	13.0	N/A	N/A	N/A	N/A	N/A
65-12721	65-12721	0.600 cfs	6.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
65-22350	65-22350	0.110 cfs	N/A	N/A	3.5	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>0.970 cfs</b>	<b>N/A</b>	<b>N/A</b>	<b>16.5</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 13<sup>th</sup> day of January, 2020.

  
\_\_\_\_\_  
for Chief, Water Allocation Bureau

**WATER RIGHT NO. 65-1131A**  
**As Modified by Transfer No. 83062**

**CONDITIONS OF APPROVAL**

5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.



**WATER RIGHT NO. 65-12721****As Modified by Transfer No. 83062**

In accordance with the approval of Transfer No. 83062, Water Right No. 65-12721 is now described as follows:

**Right Holder:** CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST #397  
BOISE, ID 83702

**Priority Date:** 7/19/1984

**Source:** PAYETTE RIVER

**Tributary:** SNAKE RIVER

<b>BENEFICIAL USE</b>	<b>From</b>	<b>To</b>	<b>Diversion Rate</b>	<b>Diversion Volume</b>
DIVERSION TO STORAGE	01/01	to 12/31	0.600 cfs	
RECREATION STORAGE	01/01	to 12/31		6.0 af
WILDLIFE STORAGE	01/01	to 12/31		6.0 af
			0.600 cfs	6.0 af

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

PAYETTE RIVER	L3 (NWNW)	Sec 7 Twp 06N Rge 01W GEM County
PAYETTE RIVER	L8 (NESE)	Sec 11 Twp 06N Rge 02W GEM County
PAYETTE RIVER	L7 (NWSE)	Sec 11 Twp 06N Rge 02W GEM County

**PLACE OF USE: RECREATION STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	02W	11													X	X			
															L 8	L 7			

**PLACE OF USE: WILDLIFE STORAGE**

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	02W	11													X	X			
															L 8	L 7			

**CONDITIONS OF APPROVAL**

1. Water is delivered through Smith Ditch.
2. Storage use for gamebird, waterfowl & fish habitat.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Transfer No. 83062

**WATER RIGHT NO. 65-12721**  
**As Modified by Transfer No. 83062**

**CONDITIONS OF APPROVAL**

4. 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.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.



**WATER RIGHT NO. 65-22350****As Modified by Transfer No. 83062**

In accordance with the approval of Transfer No. 83062, Water Right No. 65-22350 is now described as follows:

**Right Holder:** CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST #397  
BOISE, ID 83702

**Priority Date:** 3/9/2001

**Source:** PAYETTE RIVER

**Tributary:** SNAKE RIVER

**BENEFICIAL USE**

IRRIGATION

**From**

03/01

**To**

to 11/15

**Diversion Rate**

0.110 cfs

0.110 cfs

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

PAYETTE RIVER

L3 (NWNW)

Sec 7 Twp 06N Rge 01W GEM County

PAYETTE RIVER

L7 (NESE)

Sec 11 Twp 06N Rge 02W GEM County

PAYETTE RIVER

L8 (NWSE)

Sec 11 Twp 06N Rge 02W GEM 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	
06N	02W	11				0.9									2.6				3.5
						L 8									L 8				

POU Total Acres: 3.5

**CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. When water is not available to fill this right, the right holder shall cease diversion, shall rent water from the Payette River Rental Pool, or shall otherwise mitigate the depletion of water caused by this water use.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

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**WATER RIGHT NO. 65-22350**  
**As Modified by Transfer No. 83062**

**CONDITIONS OF APPROVAL**

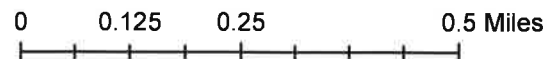
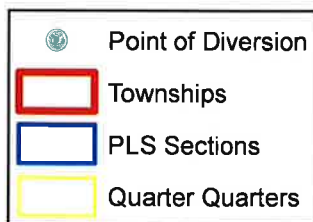
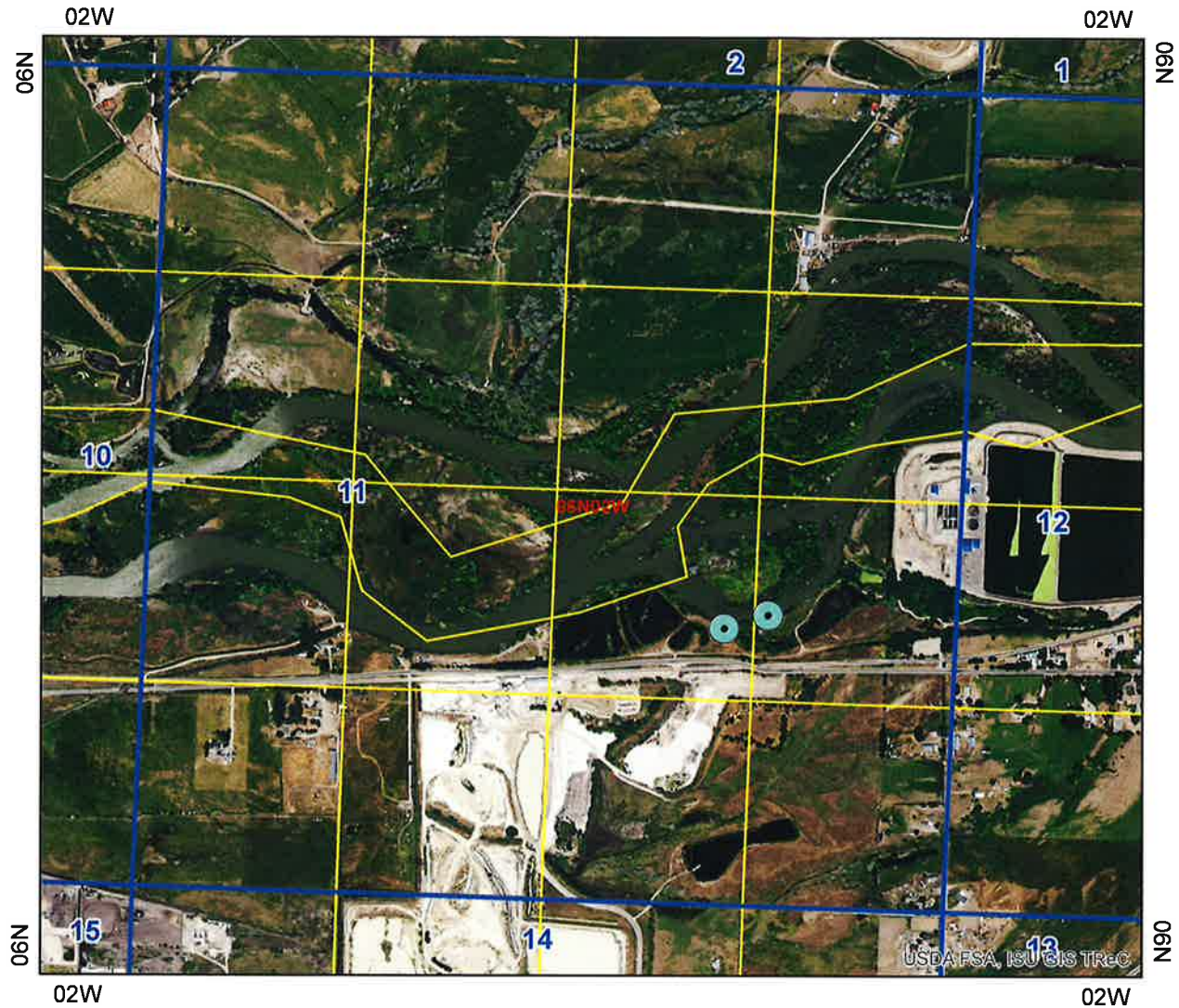
4. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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

## Attachment to Transfer No. 83062

Water Right(s): 65-1131A, 65-12721, 65-22350

This map depicts the IRRIGATION point of diversion for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.





# **WATER RIGHT NO. 65-1131A**

## **As Modified by Transfer No. 83062**

In accordance with the approval of Transfer No. 83062, Water Right No. 65-1131A is now described as follows:

**Right Holder:** CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST #397  
BOISE, ID 83702

**Priority Date:** 10/5/1875

**Source:** PAYETTE RIVER

**Tributary:** SNAKE RIVER

**BENEFICIAL USE**  
IRRIGATION

**From**  
03/15

**To**  
to 11/15

**Diversion Rate**  
0.260 cfs  
0.260 cfs

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

PAYETTE RIVER L3 (NWNW) Sec 7 Twp 06N Rge 01W GEM County  
PAYETTE RIVER L8 (NESE) Sec 11 Twp 06N Rge 02W GEM County  
PAYETTE RIVER L7 (NWSE) Sec 11 Twp 06N Rge 02W GEM 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	
06N	02W	11													4.0	9.0			13.0
															L 8	L 7			

POU Total Acres: 13.0

### **CONDITIONS OF APPROVAL**

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
4. 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.

Transfer No. 83062





State of Idaho

## DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

January 13, 2020

CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST 397  
BOISE ID 83702

**Re: Application for Transfer No.: 83062**  
**Water Right No(s): 65-1131A , 65-12721, 65-22350**

### Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

The Transfer of Water Rights 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) 334-2190

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kensie Thorneycroft', written in a cursive style.

Kensie Thorneycroft  
Administrative Assistant

Enclosure

## CERTIFICATE OF SERVICE

I hereby certify that on January 13, 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.: 83062**

**Water Right No(s): 65-1131A , 65-12721, 65-22350**

CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST  
1775 W STATE ST 397  
BOISE ID 83702



Kensie Thorneycroft  
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.

Payette River Basin, State of Idaho  
State, Water District No. 65

Watermaster,  
Ron Shurtleff

102 N. Main  
Payette, ID 83661

Phone: 208-642-4465  
Fax: 208-642-1042  
E-mail: wd65@srvinet.com

December 20, 2019

Allen Bradbury  
IDWR-Western Region  
2735 W. Airport Way  
Boise, ID 83705-5082

**RECEIVED**  
**DEC 23 2019**  
**WATER RESOURCES**  
**WESTERN REGION**

Re: Application for transfer No. 83062

Dear Mr. Bradbury,

I understand there is some concern at the regional level that granting an additional point of diversion for water rights 65-1131A, 65-12721 and 65-22350 could allow an enlargement. In my conversations with Mr. Kelsey I can testify this is not his intention. Instead, delivery by pumping is intended to be a backup method when canal delivery fails.

The Smith Ditch delivers water to the Kelsey property and is not managed constantly. The result is flow rates that range from too much to not enough. I would not oppose a secondary point of diversion where a pump system could supplement during times of scarcity. I believe the financial burden of operation a pump will insure that pumping on top of sufficient flow through the canal system should not take place.

I do not oppose this request for an additional point of diversion.

Respectfully,

  
Ron Shurtleff

## Bradbury, Allen

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**From:** cskelsey@pacbell.net  
**Sent:** Monday, December 02, 2019 10:36 AM  
**To:** Bradbury, Allen  
**Cc:** Ron Shurtleff  
**Subject:** Re: Application for Transfer No 83062

Mr. Bradbury,

Thank you for your email reply.

There would be no economically feasible way for me to pump year round for wildlife and irrigation, so I would have to keep my Ditch gravity flow to keep the property supplied most of the time, and the additional POD's on this application would only be used when my water in the Ditch has been overused or diverted by upstream users dropping my water to insufficient levels to keep the fish and wildlife alive. I therefore could not afford to abandon the Ditch POD for economic reasons.

Having said this, I have been working with several water delivery design companies to best solve the problem. My intention is to measure flow and/or level at the Ditch coming onto the property, and if the flow/level drops below a certain point, then turn the pumps on until Ditch flow is again supplying my water right, then turn them off again. I am the last user on the Ditch so this does not affect any downstream users. In fact, all water that flows onto my property for the wildlife, flows back into the river at the bottom of the last pond. I am not a pump expert, but am told that it would not be difficult to accomplish setting a pump to run as a supplement to bring my supply to a certain level without overpumping or enlarging, and that there are various ways to accomplish flow maintenance while avoiding enlargement in general.

Mr. Shurtleff is well aware of the Ditch supply problem to my property, and I spoke to him about the Department's concerns regarding enlargement this morning. I believe he is supportive of my efforts to maintain flow by adding a pump at my property as a supplement, while keeping the Ditch gravity flow open to alleviate burden of the cost of pumping year round. We discussed various options moving forward that I think he believes would work. I am happy to work with him on an ongoing basis to ensure the process does not result in enlargement. I have copied him on this email so that he can be involved in this process as you have suggested, and I have asked him to provide a letter to you regarding his position on this matter.

Please let me know if you have any additional questions.

Sincerely,  
Chris Kelsey

On Nov 29, 2019, at 2:44 PM, Bradbury, Allen <[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)> wrote:

Mr. Kelsey,

After regional management review of your transfer application, I have received it back with continued concerns about enlargement. The particular concern is that you will have multiple diversions from the same source. Which means you could potentially divert water from the ditch and the pumps at the same



time, which would be considered enlargement. The Department wants to know what controls will be in place to prevent diversion of water from both points-of-diversion (POD's). One potential solution is to abandon the POD from the ditch. Another route may be to contact the Water District 65 (WD65) water master, Ron Shurtleff. The Department would need to know whether or not Mr. Shurtleff is in support of having both POD's and whether he thinks this situation could be managed in a way to avoid enlargement. The Department would need a letter from WD65 confirming their position on the matter. I have included Mr. Shurtleff's contact information below.

Ron Shurtleff  
Water District 65  
102 N Main St  
Payette, ID 83661

208-642-4465  
[waterdist65@srvinet.com](mailto:waterdist65@srvinet.com)

Please contact me if you have additional questions regarding the content of this email.

Regards,

Allen Bradbury  
Water Resource Agent, Sr.  
IDWR-Western Region  
(208) 334-2190  
[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov).

**From:** [cskelsey@pacbell.net](mailto:cskelsey@pacbell.net) [<mailto:cskelsey@pacbell.net>]  
**Sent:** Friday, November 22, 2019 5:25 PM  
**To:** Bradbury, Allen <[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)>  
**Subject:** Re: Application for Transfer No 83062

Mr. Bradbury,  
Could you please let me know when I could expect the above listed approved water transfer? I would like to get my pump installed and work done while river water is low, and the Dept has had my application for quite some time.  
I believe after our last discussion, my response letter to the IDWR letter, and the reposting of the notice by the Dept, there should be nothing else needed, but if something else is needed, then please call to let me know right away.  
Thank you,  
Chris Kelsey  
208-495-4455 cell

On Sep 17, 2019, at 10:14 AM, Bradbury, Allen  
<[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)> wrote:

Thank you for your reply.

Allen Bradbury

Water Resource Agent, Sr.

IDWR-Western Region

Phone: (208) 334-2190

Email: [Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)

**From:** [cskelsey@pacbell.net](mailto:cskelsey@pacbell.net) [<mailto:cskelsey@pacbell.net>]

**Sent:** Sunday, September 15, 2019 5:26 PM

**To:** Bradbury, Allen <[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)>

**Subject:** Application for Transfer No 83062

Mr. Bradbury,

Attached please find my letter in response to the IDWR enlargement letter.

Please let me know if you have any questions or need anything else to complete this transfer.

Thank you,

Chris Kelsey

208-495-4455 cell

RECEIVED

OCT 04 2019

29512 1944686

WATER RESOURCES  
WESTERN REGION

1 IDWR - WESTERN REGION

2735 AIRPORT WAY  
BOISE ID 83705

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34780

DAVID BRIGGS

22391 RAMS HORN WAY

CALDWELL, ID 83607-5453

Point of Diversion NWSE S36 T06N R03W GEM County

Source GROUND WATER Tributary

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Use: IRRIGATION 03/01 to 11/15 0.1 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.16 CFS

Date Filed: 8/22/2019

Place Of Use: IRRIGATION, DOMESTIC, STOCKWATER  
T06N R03W S36 NWSE

Total Acres: 5

Water bearing zone to be appropriated is from 230 to 400 feet.

65-23846

ALEXANDRIA KINCAID

ERIC KINCAID

4401 N EAGLE RD STE 102

BOISE, ID 83713-4818

(4) Points of Diversion SWNE S16 T07N R01W GEM

County Source SURFACE RUNOFF Tributary SINKS

Use: IRRIGATION 03/01 to 11/15 0.36 CFS

Use: STOCKWATER 01/01 to 12/31 0.02 CFS

Total Diversion: 0.36 CFS

Date Filed: 7/2/2019

Place Of Use: IRRIGATION, STOCKWATER

T07N R01W S16 SWNE

Total Acres: 9

NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 83062

CHRISTOPHER STEVEN KELSEY 2002 SEPARATE PROPERTY TRUST, 1775 W STATE ST #397, BOISE, ID 83702; has filed Application No. 83062 for changes to the following water rights within GEM County(s): Right No(s). 65-1131A, 65-12721, 65-22350; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). The purpose of the transfer is to change a portion of the above rights as follows: Proposes to add two new points of diversion for water rights 65-1131A, 65-12721, and 65-22350. The acreage is currently irrigated by a gravity ditch (Smith Ditch) from the Payette River. The existing ditch will continue to be used when flow is adequate. Alternative points of diversion will pump directly from the Payette River into a pvc pipeline located on the applicants property. Water will be used at the current place of use approximately 1.3 mile west of Emmett, Idaho in Gem County near the junction of Cascade Road and Airport Road.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer (s) please see [www.idwr.idaho.gov](http://www.idwr.idaho.gov). Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 10/7/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

September 18, 25, 2019

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AFFIDAVIT OF PUBLICATION  
STATE OF IDAHO )

) SS.

County of Canyon )

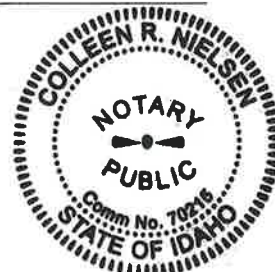
Sharon Jessen  
of Nampa, Canyon County, Idaho, being  
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Emmett Messenger-Index, a weekly newspaper published in the City of Emmett, in the County of Gem, State of Idaho; that the said newspaper is in general circulation in the said County of Gem, and in the vicinity of Emmett, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.
4. That said notice was published the following:  
09/18/2019 09/25/2019

STATE OF IDAHO  
County of Canyon)

On this 25th day of September in the year of 2019 before me a Notary Public, personally appeared. Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Notary Public for Idaho  
Residing at Canyon County  
My Commission expires 06/28/2023



Christopher S. Kelsey  
1775 W. State Street, #397  
Boise, ID 83702

Sept 13, 2019

Allen Bradbury  
IDWR  
2735 W. Airport Way  
Boise, ID 83705

RE: Transfer No. 83062


Dear Mr. Bradbury,

This letter is in reply to your letter of Sept 3, 2019 in which IDWR stated its concern about potential enlargement issues related to my application for transfer to a new diversion point(s). I do not believe that enlargement is an issue with my application for two reasons. First, water availability at the current point of diversion at the head of the Smith Ditch is on the main channel of the Payette River, is quite substantial and reliable, and is consistently available year round. My property, and the new points of diversion that I am requesting are just a mile or so downstream along the same Payette River source. For this reason, I do not believe there is any availability change to the water supply at any of these points along the Payette, and that adding these new points of diversion would therefore not result in an enlargement.

Next, my request for the additional points of diversion are due to Ditch delivery problems. I am the last user on the Ditch. Water is first used by the Woodgrain Mill, then 3 or 4 other downstream users, then lastly myself. Because I am the last user on the Ditch, I am highly subject to the taking of water by users upstream from me, including the Mill, which has a very large water right, and sometimes takes its water intermittently. This problem has become a significant issue since they received a large water right split from Boise Cascade a couple of years ago that has allowed them to use the Smith Ditch for delivery of their large water right. With such a large and intermittent water use by the Mill, and without close daily monitoring and adjustment of the head gate my supply varies greatly day to day. I am also subject to intermittent tampering of the Ditch control points, including the head gate and overflow diversions back to the river, and have had to involve Law Enforcement to assist in gaining access to these control points to keep my water right supplied. For these and other reasons, the inconsistent delivery of water in my water right is solely a Ditch related issue, and not an availability or reliability issue with water availability at the existing POD. In addition, I have the only year round water right on the Ditch, which is particularly important as a good portion of that right is for wildlife ponds. I have had several incidents where water was diverted or a gate was locked, and we experienced a fish die off.

Thank you for your consideration in the matter of this application. If you have any questions, please do not hesitate to contact me.

Sincerely,



Christopher S. Kelsey  
208-495-4455 cell