

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT
TRANSFER NO. 83645

This is to certify that: BEAR LAKE SANDS LLC
P.O. BOX 213
LAKETOWN, UT 84038

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>
11-7391	WR/LICENSE	2/13/1991	2.570 cfs	446.0 af	N/A	127.0	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>
11-7391	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>
11-7391	11-7857	0.140 cfs	11.0 af	N/A	N/A	11-7391	2.430 cfs	421.5 af	N/A	120.0
COMBINED TOTALS		0.140 cfs	11.0 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 10th day of December, 2019.



Regional Manager

Support Data
In File # 11-7391

Transfer No. 83645

WATER RIGHT NO. 11-7391
As Modified by Transfer No. 83645

In accordance with the approval of Transfer No. 83645, Water Right No. 11-7391 is now described as follows:

Right Holder: LAZY K HAT LLC
 PO BOX 186
 PARIS, ID 83716

Priority Date: 2/13/1991

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION
 STOCKWATER

From

03/15
 01/01

to 11/15
 to 12/31

Diversion Rate

2.400 cfs
 0.030 cfs
 2.430 cfs

Diversion Volume

420.0 af
 1.5 af
 421.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNES Sec 33 Twp 13S Rge 43E BEAR LAKE 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	
13S	43E	28															0.5		0.5
13S	43E	33		27.0	29.0										5.3			0.1	61.4
13S	43E	34									13.5	39.0	4.1	1.5					58.1

POU Total Acres: 120.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	43E	28															X		
13S	43E	33		X	X										X			X	
13S	43E	34									X	X	X	X					

CONDITIONS OF APPROVAL

- 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. 83645

WATER RIGHT NO. 11-7391
As Modified by Transfer No. 83645

CONDITIONS OF APPROVAL

2. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of an 8.8 acre portion of the lands authorized to be irrigated under this right. The 8.8 acre portion of the place of use irrigated partially with surface water is located in the NESW, NWSW, SESW, Sec 34, Twp 13S, Rge 43E and the NESE, Sec 33, Twp 13S, Rge 43E. For the 8.8 acre portion, the right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient for irrigation.
3. If the surface water right(s) appurtenant to the 8.8 acre portion of the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used to irrigate more than 111.2 acres without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
4. 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 above.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 433.5 af at the field headgate for the lands above.
6. The annual volume of water diverted for stock watering purposes shall not exceed 1.5 af.

WATER RIGHT NO. 11-7857**As Modified by Transfer No. 83645**

In accordance with the approval of Transfer No. 83645, Water Right No. 11-7857 is now described as follows:

Right Holder: BEAR LAKE SANDS LLC
P.O. BOX 213
LAKETOWN, UT 84038

Priority Date: 2/13/1991

Source: GROUND WATER

BENEFICIAL USE
DOMESTIC

From
1 /1

To
to 12/31

Diversion Rate
0.140 cfs
0.140 cfs

Diversion Volume
11.0 af
11.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L1 (NWNE) Sec 12 Twp 16S Rge 44E BEAR LAKE County

PLACE OF USE: DOMESTIC

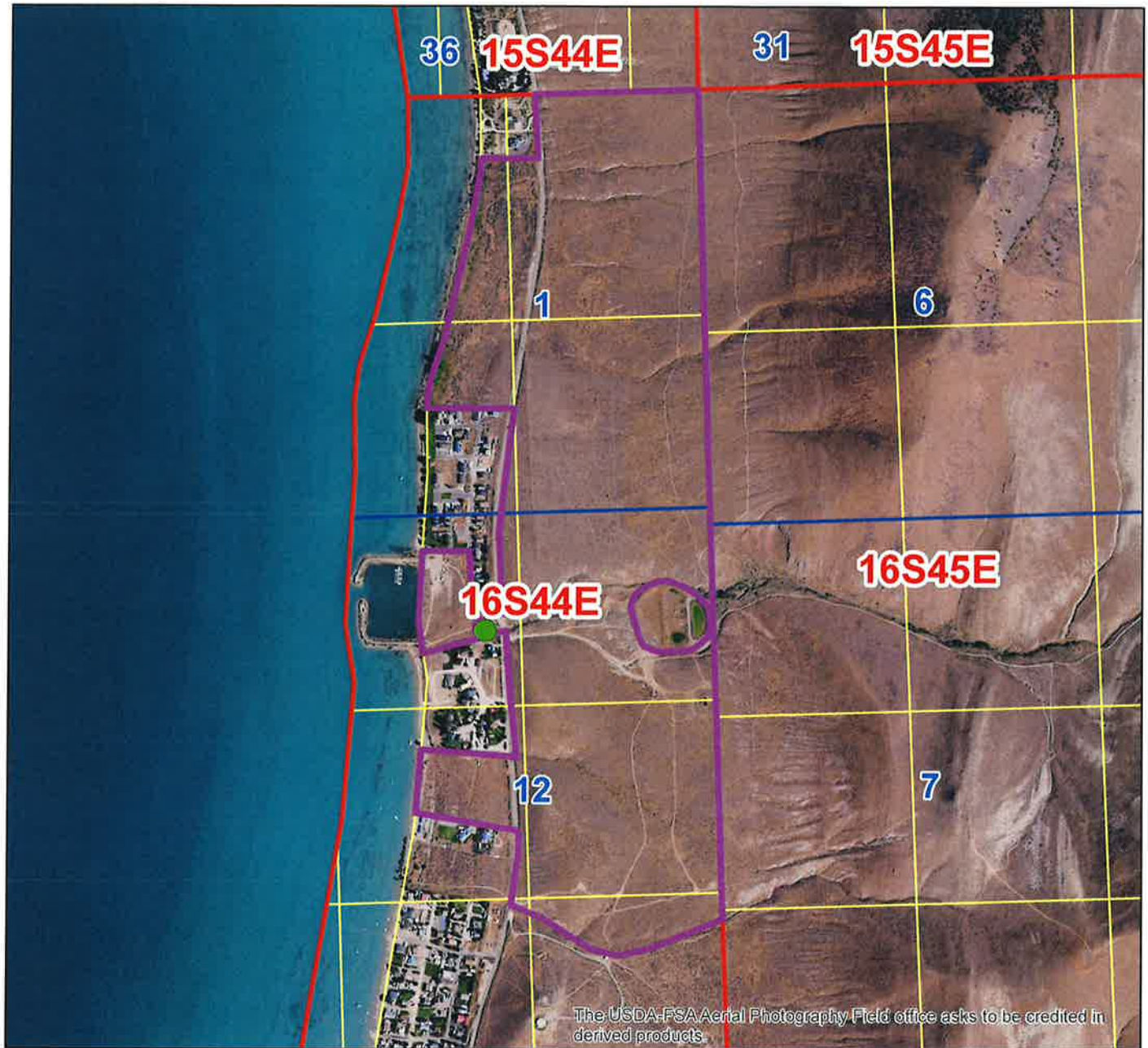
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	44E	1													X		X	X	0.0
															L 1		L 2		
16S	44E	12	X	X	X	X									X	X			0.0
				L 1	L 2											L 3			

CONDITIONS OF APPROVAL

1. Domestic use is for 41 homes.
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 right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. 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 83645

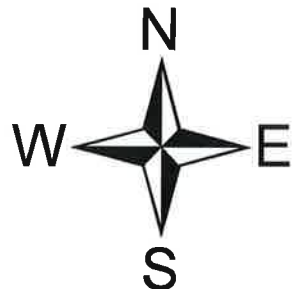
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 750 1,500 3,000 Feet



SCANNED
Date: 12/4/2019
DEC 05 2019



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

December 4, 2019

BEAR LAKE SANDS LLC
P.O. BOX 213
LAKETOWN UT 84038

Re: Transfer No: 83645
Water Right No(s): 11-7391

Amended Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Amended 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

LAZY K HAT LLC
PO BOX 186
PARIS ID 83716

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2019 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.: 83645
Water Right No(s): 11-7391**

**BEAR LAKE SANDS LLC
P.O. BOX 213
LAKETOWN UT 84038**

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

**LAZY K HAT LLC
PO BOX 186
PARIS ID 83716**



**Christina Henman
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.