

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83336**

This is to certify that: D & J HOLDINGS LLC
PO BOX 67
ELLIS, ID 83253

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>
73-7124	WR/LICENSE	6/10/1994	2.000 cfs	N/A	99.8	175.0	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>
73-7124	NO	YES	NO	NO	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>
73-7124	73-7124	2.000 cfs	N/A	99.8	175.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		N/A	N/A	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 11th day of October, 2019.


Clay Webster, Water Rights Supervisor

WATER RIGHT NO. 73-7124
As Modified by Transfer No. 83336

In accordance with the approval of Transfer No. 83336, Water Right No. 73-7124 is now described as follows:

Right Holder: D & J HOLDINGS LLC
 PO BOX 67
 ELLIS, ID 83253

Priority Date: 6/10/1994

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	2.000 cfs
			2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESE Sec 13 Twp 14N Rge 21E CUSTER 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	
14N	21E	13				16.0									40.0	7.8	1.5	28.0	93.3
14N	22E	18							14.0		5.2	38.0	24.0	0.5					81.7

Right Acre Limit: 99.8
 POU Total Acres: 175.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. This right is limited to the irrigation of 99.8 acres within the authorized place of use in a single irrigation season.
4. Rights 73-2141 and 73-7124 when combined shall not exceed the irrigation of 199.8 acres.
5. Rights 73-2142 and 73-7124 when combined shall not exceed a total diversion rate of 2.38 cfs.
6. Rights 73-2141, 73-2153 and 73-7124 when combined shall not exceed the irrigation of 273.3 acres.

Transfer No. 83336

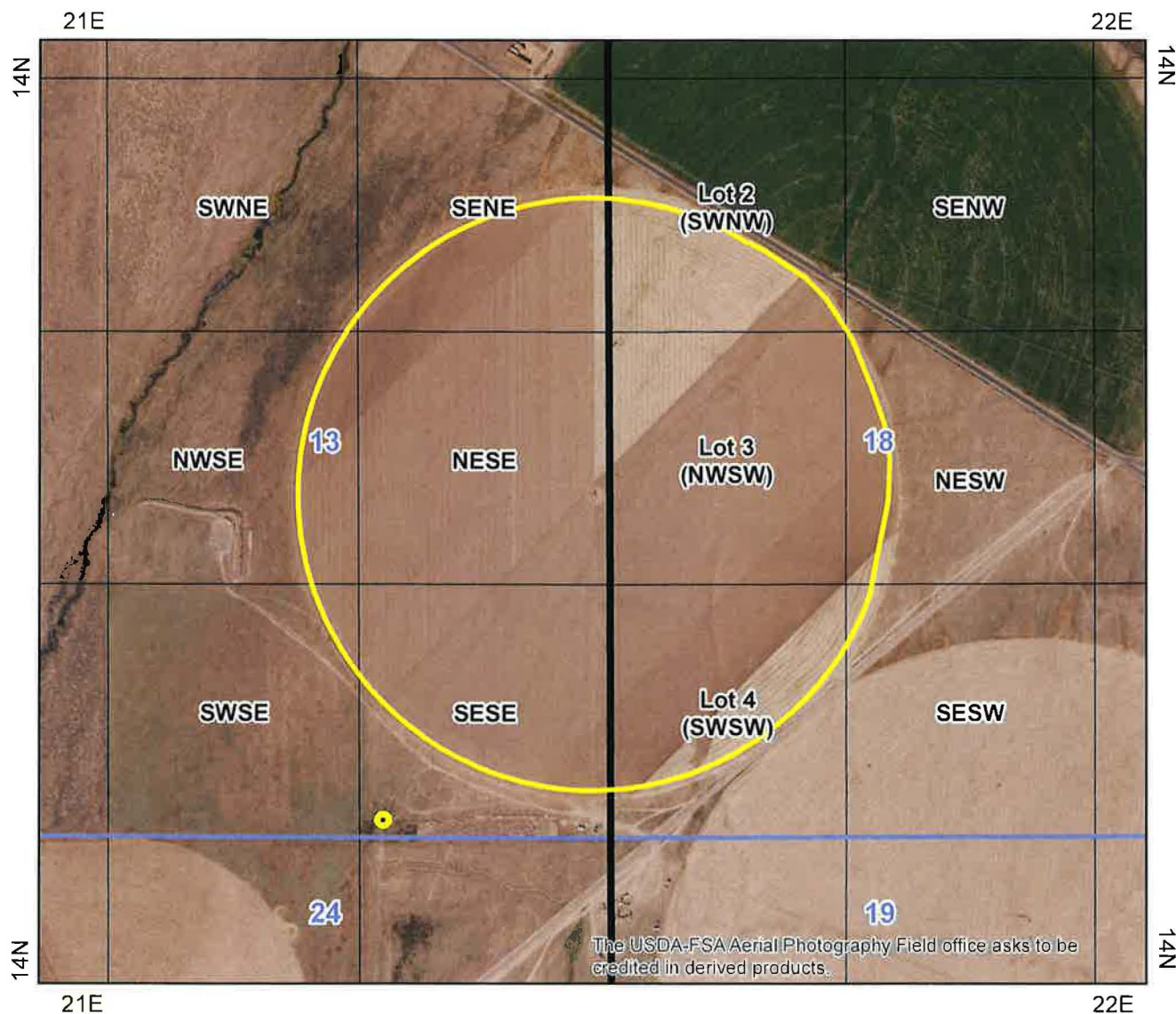
WATER RIGHT NO. 73-7124
As Modified by Transfer No. 83336

CONDITIONS OF APPROVAL

7. 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 place of use.
8. 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 349.3 af at the field headgate for the place of use.
9. The right holder shall make full beneficial use of right 73-2153 for irrigation of 97.7 acres of the 99.8 acres authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to irrigate more than 2.1 acres to those times when right 73-2153 is not available or is not reasonably sufficient to irrigate 97.7 acres of the authorized place of use.
10. If right 73-2153 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 2.1 acres without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

State of Idaho
Department of Water Resources
Attachment to Transfer 83336
73-7124

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



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

0 0.1 0.2 0.4 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 15, 2019

D & J HOLDINGS LLC
PO BOX 67
ELLIS ID 83253

Re: Transfer No: 83336
Water Right No(s): 73-7124

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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) 287-4800.

Sincerely,



Clay Webster

Water Rights Supervisor

Enclosure

CC:

IDAHO AGCREDIT FLCA
1586 N 2ND E
REXBURG ID 83440-5129

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 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.: 83336
Water Right No(s): 73-7124**

**D & J HOLDINGS LLC
PO BOX 67
ELLIS ID 83253**

**IDAHO AGCREDIT FLCA
1586 N 2ND E
REXBURG ID 83440-5129**



**Darla Block
Technical Records Specialist**

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.

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Collins Crapo, representing the Challis Messenger, a weekly newspaper, published ad Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated September 18th 2019 and ending with the issue dated September 25th 2019

Notice of Proposed Change
of Water Right #83336
Ad #167662

RECEIVED

SEP 30 2019

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

COUNTY OF CUSTER

On this 25th day of September in the year of 2019, before me, a Notary Public, personally appeared Collins Crapo, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that (s)he executed the same.

Beth Crossley
Notary Public of Idaho
Residing at Idaho Falls
My commission expires _____

BETH CROSSLEY
NOTARY PUBLIC - STATE OF IDAHO
COMMISSION NUMBER 68167
MY COMMISSION EXPIRES 7-28-2022

**NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 83336**

D & J HOLDINGS LLC, PO BOX 67, ELLIS, ID 83253; has filed Application No. 83336 for changes to the following water rights within CUSTER County(s): Right No(s). 73-7124; The purpose of the transfer is to change a portion of the above rights as follows:

move the point of diversion to the SESE of Section 13, Township 14N, Range 21E, approximately 0.8 miles south of where Sulpher Creek crosses Custer Rd.

For additional information concerning the property location, contact IDWR State office at (208) 287-4800; or for a full description of the transfer, please see <http://www.idwr.idaho.gov/water-rights/transfers/search.html>

Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, 322 E Front St, PO Box 83720, Boise ID 83720-0098 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

Published: September 18 and 25, 2019 (167662)

Q
gmh
10-1-19

Hersley, Jean

From: Yenter, Cindy
Sent: Thursday, September 19, 2019 10:13 AM
To: Hersley, Jean
Cc: Betts, David
Subject: Watermaster comment Transfer 83336 D & J Holdings

WD170 has no objection to this approval. This diversion has an approved flow meter installed and diversion data are collected by the WD73 watermaster.

WD Flag = 73.

*Cindy Yenter
Idaho Dept of Water Resources
Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*