

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83551**

This is to certify that: **SWAGER FARMS LLLP**
1749 E 3800 N
BUHL, ID 83316

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>
47-16831	WR/DECREED	9/26/1967	0.400 cfs	72.0 af	N/A	N/A	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>
47-16831	NO	NO	YES	YES	NO	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>
47-16831	47-16831	0.400 cfs	72.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.400 cfs	72.0 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 27th day of September, 2019.



Southern Region Manager

WATER RIGHT NO. 47-16831**As Modified by Transfer No. 83551**

In accordance with the approval of Transfer No. 83551, Water Right No. 47-16831 is now described as follows:

Right Holder: SWAGER FARMS LLLP
1749 E 3800 N
BUHL, ID 83316

Priority Date: 9/26/1967

Source: GROUND WATER

BENEFICIAL USE

STOCKWATER
COMMERCIAL

From

01/01
01/01

to

To

12/31
12/31

Diversion Rate

0.400 cfs
0.400 cfs
0.400 cfs

Diversion Volume

72.0 af
72.0 af
72.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec 4 Twp 12S Rge 17E TWIN FALLS County
GROUND WATER SESW Sec 4 Twp 12S Rge 17E TWIN FALLS County

PLACE OF USE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	17E	4									X				X	X	X	X	X

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	
12S	17E	4									X				X	X	X	X	X

CONDITIONS OF APPROVAL

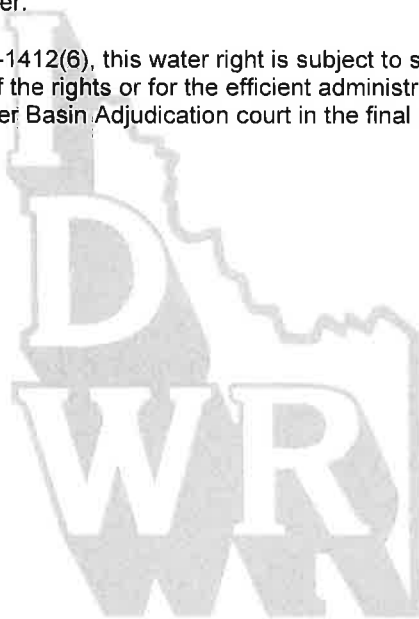
1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. The priority of the use of water under this approval is subordinated to existing water rights of the protestants and to other existing water rights from ground water upgradient from the Twin Falls South Side Canal Company Highline Canal to the extent it can be shown in accordance with the Rules for Conjunctive Management of Surface and Ground Water Resources (IDAPA 37.03.11) that the existing water rights are injured by transferred water right no. 47-16831.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Transfer No. 83551

WATER RIGHT NO. 47-16831
As Modified by Transfer No. 83551

CONDITIONS OF APPROVAL

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



State of Idaho
Department of Water Resources

Attachment to Transfer # 83551

47-16831

This map depicts the STOCKWATER & COMMERCIAL 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

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: www.idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

October 2, 2019

SWAGER FARMS LLLP
1749 E 3800 N
BUHL ID 83316

Re: Transfer No: 83551
Water Right No(s): 47-16831

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) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 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.: 83551
Water Right No(s): 47-16831

SWAGER FARMS LLLP
1749 E 3800 N
BUHL ID 83316

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301



Denise Maline
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.

MEMORANDUM

Date: September 27, 2019
To: Transfer #83551, Swager Farms, LLLP File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the place of use (POU), nature of use, and add a point of diversion (POD) to a ground water stockwater right, with a flow rate of 0.40 cfs, which is appurtenant to a CAFO and associated stockwater use located approximately 5.4 miles east and 3.8 miles north of Hollister. The additional POD will be a new well located approximately 5.3 miles east and 3.6 miles north of Hollister. The transfer proposes to modify the POU to include adjacent property and to add commercial use as an additional use.

The transfer was advertised because it proposes to change the nature of use of the right. No protests were received.

- **Authority to File:**
The Department's database indicates that water right 47-16831 is owned by the applicant, Swager Farms, LLLP. The application was signed by Dean Swager, who is the general partner of Swager Farms, LLLP, according to Secretary of State documents supplied with the application.
- **Water Right Validity:**
The water right was decreed in the SRBA, and a review of aerial imagery shows the facility appears to have been occupied by cattle recently.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The additional POD is not near other wells and rates and volumes will not be increasing.
- **Enlargement of Use:**
None anticipated. Volumes and rates will not increase.
- **Local Public Interest:**
No issues anticipated. The transfer was advertised. No protests were received.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

*** Proof of Publication ***

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

SHERRI DAVIS, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

ORDER NUMBER 91761

Sherri Davis

(Legals Clerk)

STATE OF IDAHO)
SS
COUNTY OF TWIN FALLS)

On this 12 day of September in the year of 2019 before me, a Notary Public, personally appeared before me Sherri Davis known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Erica Izaguirre

Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 8/17/25

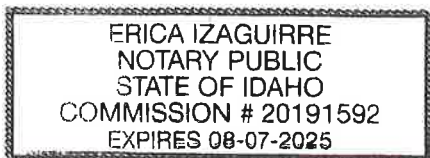
Section: Legals

Category: 50 Legal

PUBLISHED ON: 09/05/2019, 09/12/2019

TOTAL AD COST: 142.86

FILED ON: 9/12/2019



NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82976

WAYNE BROWN and HEATHER BROWN, 3528 E 300 N, RIGBY, ID 83442; KATHY J MORGAN and CODY G MORGAN, PO BOX 95, PAUL, ID 83347-0095; have filed Application No. 82976 for changes to the following water rights within JEROME County(s): Right No(s). 36-14878, 36-17090, 36-17091, 36-17092. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and point of diversion (POD) for a domestic & stockwater right, and add a new POD (well) to that right and three commercial & stockwater rights appurtenant to a CAFO located approximately 9.2 miles west of the intersection of Main Street and Overland Avenue in Burley. The new well will be located approximately 9.0 miles west and 0.3 mile north of Burley. After the transfer, the four ground water rights will divert up to 0.14 cfs from two wells.

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TRANSFER NO. 83551

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For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see research.idwr.idaho.gov/apps/waterrights/Query-NewTransfers. 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, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **September 23, 2019**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PUBLISH: September 5 & 12, 2019

✓ DM 9-20-2019

RECEIVED

SEP 16 2019

DEPT OF WATER RESOURCES
SOUTHERN REGION

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 91761

Publication	Times News		
Contact	ID DEPARTMENT OF WATER RESOURCES	PO Number	
Address 1	650 ADDISON AVE W, STE 500	Rate	Legal Notice
Address 2		Order Price	142.86
City St Zip	TWIN FALLS ID 83301	Amount Paid	0.00
Phone	2087363033	Amount Due	142.86
Fax			
Section	Legals	Start/End Dates	09/05/2019 - 09/12/2019
SubSection		Insertions	2
Category	50 Legal	Size	92
Ad Key	91761-1	Salesperson(s)	Ruby Aufderheide
Keywords	Transfer No 82976 & 83551	Taken By	Ruby Aufderheide
Notes			

Ad Proof

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 82976

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GARY SPACKMAN, Director

PUBLISH: September 5 & 12, 2019

Proof of legal notice received
from Times News 8/30/2019

✓ *dm* 9/3/2019