

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 83177

This is to certify that: JERRY B SOLLENDER
4168 W 4200 N
MACKAY, ID 83251-4518
AND
SANDRA SOLLENDER
4168 W 4200 N
MACKAY, ID 83251

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>
34-14677	WR/DECREED	12/17/1961	0.120 cfs	21.0 af	N/A	6.0	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>
34-14677	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>
34-14677	34-14677	0.120 cfs	21.0 af	N/A	6.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.120 cfs	21.0 af	N/A	6.0		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 16th day of September, 2019.


for _____
Chief, Water Allocation Bureau

WATER RIGHT NO. 34-14677
As Modified by Transfer No. 83177

In accordance with the approval of Transfer No. 83177, Water Right No. 34-14677 is now described as follows:

Right Holder: SANDRA SOLLENDER
 4168 W 4200 N
 MACKAY, ID 83251
 AND
 JERRY B SOLLENDER
 4168 W 4200 N
 MACKAY, ID 83251-4518

Priority Date: 12/17/1961

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 11/01	0.120 cfs	21.0 af
			0.120 cfs	21.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec 31 Twp 07N Rge 25E 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	
07N	25E	31												6.0					6.0

POU Total Acres: 6.0

CONDITIONS OF APPROVAL

1. Point of diversion and place of use are located within Lot 2, Block 1; Crows Nest Estates Subdivision.
2. 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. 34.
3. Prior to the diversion and use of water under Transfer approval 83177, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

Transfer No. 83177

WATER RIGHT NO. 34-14677
As Modified by Transfer No. 83177

CONDITIONS OF APPROVAL

4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
5. 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.
6. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.

Attachment to Transfer Approval 83177

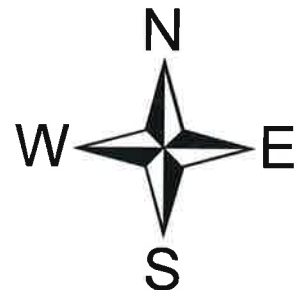
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 115 230 460 Feet



Date: 9/16/2019



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

September 16, 2019

JERRY B SOLLENDER
4168 W 4200 N
MACKAY ID 83251-4518

SANDRA SOLLENDER
4168 W 4200 N
MACKAY ID 83251

Re: Transfer No: 83177
Water Right No(s): 34-14677
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 'J. Cefalo', written over a horizontal line.

James Cefalo

Regional Manager

JC:CH

CERTIFICATE OF SERVICE

I hereby certify that on September 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.: 83177
Water Right No(s): 34-14677

JERRY B SOLLENDER
4168 W 4200 N
MACKAY ID 83251-4518

SANDRA SOLLENDER
4168 W 4200 N
MACKAY ID 83251

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

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.

MEMORANDUM

Date: August 22, 2019
To: Transfer 83177
From: Jeff Nield
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion for water right 34-14677 to the applicants property located in Lot 2, Block 1, Crows Nest Estates Subdivision. Place of use will not change.

Authority to File:

Applicants, Jerry B. and Sandra Sollender, recently updated the ownership of the water right. Custer County taxlot data shows the applicants as the owner of the property at the existing place of use and proposed point of diversion. The transfer application was signed by the water right holders.

Water Right Validity:

Original water right 34-2425, decreed in 2002, authorized 147 acre of irrigation from a single ground water well. Ground was subdivided in the early 1990's. As lots were sold off, the lot owners were cut-off from the irrigation well. Applicants property has been disconnected from the original well site since the early 1990s. Applicants property has been irrigated from the domestic well on their property since a home was build on the property. House is visible in 2004 aerial photos. Acres have been irrigated regularly since 2004.

Injury to Other Water Rights:

The point of diversion is simply being changed to a location on the water right owners property. Neither the place of use nor the quantity authorized to be diverted will change as a result of the transfer. The current and proposed point of diversion locations are within the same ESPA model cell. No ESPA analysis is required. This transfer was advertised and there are no protests. Water Master was notified and did oppose to the approval of the transfer.

Enlargement of Use:

The proposed change will not result in an enlargement because neither rate, nor volume, nor irrigated acreage will increase as a result of the transfer.

Local Public interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

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.

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No.: 83177

Applicant's Name: JERRY B AND SANDRA SOLLANDER

Watermaster's Recommendation:

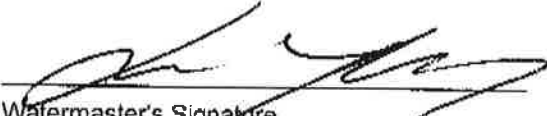
- a) LY I do not oppose approval of this application.
b) I do not oppose approval of this application if it is conditioned as follows:

c) I oppose approval of this application for the following reasons:

d) Additional Comment:

Dated this 29 day of July, 2019.

Water District No: 34


Watermaster's Signature

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, James M. Smirch, 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 July 10th 2019 and ending with the issue dated July 17th 2019

James M. Smirch

STATE OF IDAHO

COUNTY OF CUSTER

On this 17th day of July in the year of 2019, before me, a Notary Public, personally appeared James Smirch, 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.

Veronica M. Weisbeck
Notary Public of Idaho
Residing at Challis, Idaho
My commission expires 1/9/21



NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 83177

JERRY B SOLLENDER, 4168 W 4200 N, MACKAY, ID 83251-4518; SANDRA SOLLENDER, 4168 W 4200 N, MACKAY, ID 83251; has filed Application No. 83177 for changes to the following water rights within CUSTER County(s): Right No(s). 34-14677; to see a full description of these rights and the proposed transfer, please see 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: change point of diversion. The point of diversion is in SESW Sec 31 T7N R25E for 0.12 cfs from ground water. The place of use remains the same.

For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. 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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before July 29, 2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published: July 10 and 17, 2019

(157842)

RECEIVED

JUL 24 2019

Department of Water Resources
Eastern Region