

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82936**

This is to certify that: **KENNA RAE SEARS AND
WALLACE SEARS JR
1647 S HWY 77
MALTA, ID 83342-8734**

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>
43-13610	WR/DECREED	4/30/1872	0.070 cfs	N/A	N/A	30.0	CASSIA CREEK
43-13612	WR/DECREED	4/30/1873	0.060 cfs	N/A	N/A	30.0	CASSIA CREEK
43-13614	WR/DECREED	4/30/1879	0.230 cfs	N/A	N/A	30.0	CASSIA CREEK
43-13616	WR/DECREED	4/1/1894	0.340 cfs	N/A	N/A	30.0	CASSIA CREEK

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>
43-13610	NO	NO	NO	YES	NO	NO
43-13612	NO	NO	NO	YES	NO	NO
43-13614	NO	NO	NO	YES	NO	NO
43-13616	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>
43-13610	43-13610	0.070 cfs	N/A	N/A	30.0	N/A	N/A	N/A	N/A	N/A
43-13612	43-13612	0.060 cfs	N/A	N/A	30.0	N/A	N/A	N/A	N/A	N/A
43-13614	43-13614	0.230 cfs	N/A	N/A	30.0	N/A	N/A	N/A	N/A	N/A
43-13616	43-13616	0.340 cfs	N/A	N/A	30.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.700 cfs	N/A	N/A	30.0		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 19th day of June, 2019.

SUPPORT DATA

Southern Region Manager

Transfer No. 82936

IN FILE # 43-13610

WATER RIGHT NO. 43-13610**As Modified by Transfer No. 82936**

In accordance with the approval of Transfer No. 82936, Water Right No. 43-13610 is now described as follows:

Right Holder: WALLACE SEARS JR
1647 S HIGHWAY 77
MALTA, ID 83342-8734
AND
KENNA RAE SEARS
1647 S HWY 77
MALTA, ID 83342-8734

Priority Date: 4/30/1872

Source: CASSIA CREEK

Tributary: RAFT RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.070 cfs

0.070 cfs

LOCATION OF POINT(S) OF DIVERSION

CASSIA CREEK	NENESE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NWNWSE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NENWSW	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NESE	Sec 24 Twp 13S Rge 25E	CASSIA 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	
13S	25E	24													30.0				30.0

POU Total Acres: 30.0

CONDITIONS OF APPROVAL

1. Rights 43-13610, 43-13612, 43-13614, 43-13616 and 43-13618 when combined shall not exceed the irrigation of 30.0 acres.
2. Use of water under this right will 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. 43C.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 82936

WATER RIGHT NO. 43-13610
As Modified by Transfer No. 82936

CONDITIONS OF APPROVAL

4. In the event any portion of Water Rights 43-13611, 43-13613, 43-13615, and 43-13617 are diverted at any of the following locations:

NENWSW	Sec. 23, Twp 13S, Rge 25E, Cassia County
NENESE	Sec. 23, Twp 13S, Rge 25E, Cassia County
NWNWSE	Sec. 23, Twp 13S, Rge 25E, Cassia County

Then a proportionate amount of Water Rights 43-13610, 43-13612, 43-13614, and 43-13616 shall be diverted at the same location(s).

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
7. The place of use does not include federal land.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

WATER RIGHT NO. 43-13612**As Modified by Transfer No. 82936**

In accordance with the approval of Transfer No. 82936, Water Right No. 43-13612 is now described as follows:

Right Holder: WALLACE SEARS JR
1647 S HIGHWAY 77
MALTA, ID 83342-8734
And
KENNA RAE SEARS
1647 S HWY 77
MALTA, ID 83342-8734

Priority Date: 4/30/1873

Source: CASSIA CREEK

Tributary: RAFT RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.060 cfs

0.060 cfs

LOCATION OF POINT(S) OF DIVERSION

CASSIA CREEK	NENESE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NWNWSE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NENWSW	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NESE	Sec 24 Twp 13S Rge 25E	CASSIA 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	
13S	25E	24													30.0				30.0

POU Total Acres: 30.0

CONDITIONS OF APPROVAL

1. Rights 43-13610, 43-13612, 43-13614, 43-13616 and 43-13618 when combined shall not exceed the irrigation of 30.0 acres.
2. Use of water under this right will 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. 43C.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 82936

WATER RIGHT NO. 43-13612

As Modified by Transfer No. 82936

CONDITIONS OF APPROVAL

4. In the event any portion of Water Rights 43-13611, 43-13613, 43-13615, and 43-13617 are diverted at any of the following locations:

NENWSW	Sec. 23, Twp 13S, Rge 25E, Cassia County
NENESE	Sec. 23, Twp 13S, Rge 25E, Cassia County
NWNWSE	Sec. 23, Twp 13S, Rge 25E, Cassia County

Then a proportionate amount of Water Rights 43-13610, 43-13612, 43-13614, and 43-13616 shall be diverted at the same location(s).

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
7. The place of use does not include federal land.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

WATER RIGHT NO. 43-13614**As Modified by Transfer No. 82936**

In accordance with the approval of Transfer No. 82936, Water Right No. 43-13614 is now described as follows:

Right Holder: KENNA RAE SEARS
1647 S HWY 77
MALTA, ID 83342-8734
AND
WALLACE SEARS JR
1647 S HIGHWAY 77
MALTA, ID 83342-8734

Priority Date: 4/30/1879

Source: CASSIA CREEK

Tributary: RAFT RIVER

BENEFICIAL USE
IRRIGATION

From
04/01

to 10/31

To

Diversion Rate
0.230 cfs
0.230 cfs

LOCATION OF POINT(S) OF DIVERSION

CASSIA CREEK	NENESE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NWNWSE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NENWSW	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NESE	Sec 24 Twp 13S Rge 25E	CASSIA 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	
13S	25E	24													30.0				30.0

POU Total Acres: 30.0

CONDITIONS OF APPROVAL

1. Rights 43-13610, 43-13612, 43-13614, 43-13616 and 43-13618 when combined shall not exceed the irrigation of 30.0 acres.
2. Use of water under this right will 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. 43C.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 82936

WATER RIGHT NO. 43-13614

As Modified by Transfer No. 82936

CONDITIONS OF APPROVAL

4. In the event any portion of Water Rights 43-13611, 43-13613, 43-13615, and 43-13617 are diverted at any of the following locations:

NENWSW	Sec. 23, Twp 13S, Rge 25E, Cassia County
NENESE	Sec. 23, Twp 13S, Rge 25E, Cassia County
NWNWSE	Sec. 23, Twp 13S, Rge 25E, Cassia County

Then a proportionate amount of Water Rights 43-13610, 43-13612, 43-13614, and 43-13616 shall be diverted at the same location(s).

5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
7. The place of use does not include federal land.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

WATER RIGHT NO. 43-13616**As Modified by Transfer No. 82936**

In accordance with the approval of Transfer No. 82936, Water Right No. 43-13616 is now described as follows:

Right Holder: WALLACE SEARS JR
1647 S HIGHWAY 77
MALTA, ID 83342-8734
AND
KENNA RAE SEARS
1647 S HWY 77
MALTA, ID 83342-8734

Priority Date: 4/1/1894

Source: CASSIA CREEK

Tributary: RAFT RIVER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
0.340 cfs
0.340 cfs

LOCATION OF POINT(S) OF DIVERSION

CASSIA CREEK	NENESE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NWNWSE	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NENWSW	Sec 23 Twp 13S Rge 25E	CASSIA County
CASSIA CREEK	NESE	Sec 24 Twp 13S Rge 25E	CASSIA 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	
13S	25E	24													30.0				30.0

POU Total Acres: 30.0

CONDITIONS OF APPROVAL

1. Rights 43-13610, 43-13612, 43-13614, 43-13616 and 43-13618 when combined shall not exceed the irrigation of 30.0 acres.
2. Use of water under this right will 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. 43C.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 82936

WATER RIGHT NO. 43-13616

As Modified by Transfer No. 82936

CONDITIONS OF APPROVAL

4. In the event any portion of Water Rights 43-13611, 43-13613, 43-13615, and 43-13617 are diverted at any of the following locations:

NENWSW	Sec. 23, Twp 13S, Rge 25E, Cassia County
NENESE	Sec. 23, Twp 13S, Rge 25E, Cassia County
NWNWSE	Sec. 23, Twp 13S, Rge 25E, Cassia County

Then a proportionate amount of Water Rights 43-13610, 43-13612, 43-13614, and 43-13616 shall be diverted at the same location(s).

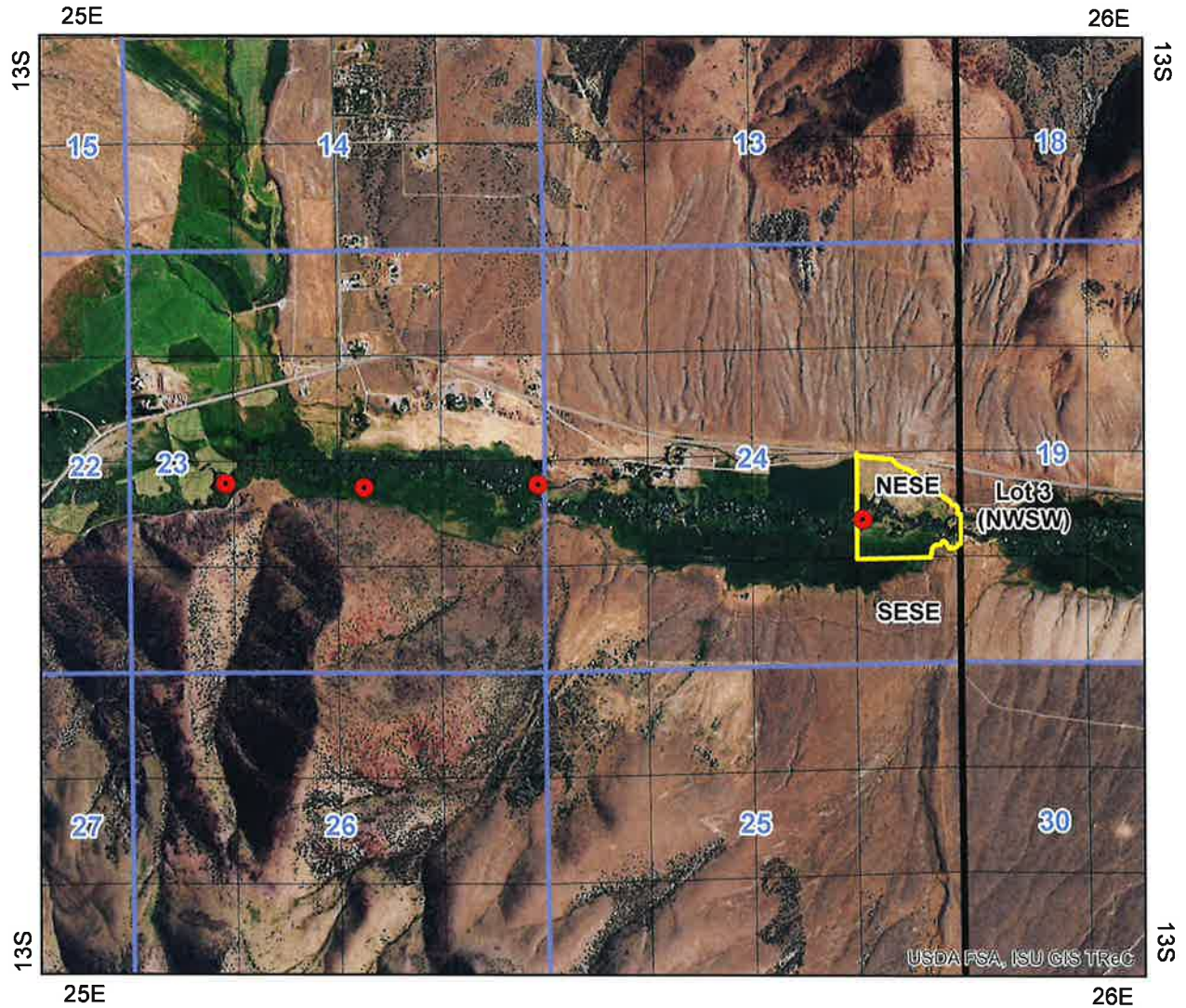
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
7. The place of use does not include federal land.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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 # 82936

43-13610, 43-13612, 43-13614, and 43-13616

This map depicts the IRRIGATION place of use boundary for these water rights 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 0.25 0.5 1 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

June 20, 2019

WALLACE SEARS JR
KENNA RAE SEARS
1647 S HIGHWAY 77
MALTA ID 83342-8734

Re: Transfer No: 82936
Water Right No(s): 43-13610, 43-13612, 43-13614, 43-13616

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:

JONAS REAGAN
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303-0087

WATER DISTRICT 43C
ROGER MUSSER
917 PARK LN
POCATELLO ID 83201

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 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.: 82936

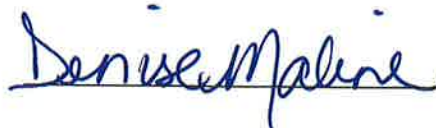
Water Right No(s): 43-13610, 43-13612, 43-13614, 43-13616

WALLACE SEARS JR
KENNA RAE SEARS
1647 S HIGHWAY 77
MALTA ID 83342-8734

JONAS REAGAN
BARKER ROSHOLT & SIMPSON LLP
PO BOX 63
TWIN FALLS ID 83303-0063

D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303-0087

WATER DISTRICT 43C
ROGER MUSSER
917 PARK LN
POCATELLO ID 83201

A handwritten signature in blue ink, reading "Denise Maline", is written over a horizontal line.

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: June 10, 2019
To: Transfer #82936; Wallace and Kenna Rae Sears POD Transfer File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add a point of diversion (POD) to four irrigation water rights which are currently authorized to divert 0.70 cfs from three PODs on Cassia Creek. The new POD will be located approximately 5.5 miles west and 2.2 miles south of Malta, and will allow the applicant to divert directly from Cassia Creek.

The transfer was advertised (no protests were received) because it proposed adding a POD on a surface water source, and since it is located on Cassia Creek, comments were sought from the Watermaster of Water District 43C. The watermaster did not submit comments on the transfer.

- **Authority to File:**
The application was signed by Jonas Reagan, the attorney representing the applicants. The water rights, as well as the property they are appurtenant to, are shown in the Department's database as being owned by Wallace and Kenna Rae Sears.
- **Water Right Validity:**
All of the rights involved in the transfer were decreed in the SRBA in 2002. Aerial imagery shows the property to be irrigated in 2017, so forfeiture is not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The new Cassia Creek POD will allow the applicants to divert water directly from Cassia Creek where it runs through their property, instead of through shared ditches. In order to avoid the possibility of injury to the other users in the shared ditches, a letter of approval of the transfer was received from one of the right holders in the ditch. To avoid injury to the other ditch user, a condition addressing and mitigating potential injury has been proposed by the applicant.
- **Enlargement of Use:**
None anticipated. Irrigated acreage is not increasing.
- **Local Public Interest:**
No issues anticipated. The transfer was advertised and was not protested.
- **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

RUBY AUFDERHEIDE, 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 85501

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
SS
COUNTY OF TWIN FALLS)

On this 23 day of May in the year of 2019 before me, a Notary Public, personally appeared before me Ruby Aufderheide 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.

Miriam King
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 5.10.22

Section: Legals

Category: 50 Legal

PUBLISHED ON: 05/16/2019, 05/23/2019

TOTAL AD COST: 87.57

FILED ON: 5/23/2019



NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82936

WALLACE SEARS JR, and KENNA RAE SEARS, 1647 S HWY 77, MALTA, ID 83342-8734; has filed Application No. 82936 for changes to the following water rights within CASSIA County(s): Right No(s). 43-13610, 43-13612, 43-13614, 43-13616; 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: Application for transfer proposes to add a point of diversion (POD) to four irrigation water rights which are currently authorized to divert 0.70 cfs from three PODs on Cassia Creek. The new POD will be located approximately 5.5 miles west and 2.2 miles south of Malta, and will allow the applicant to divert directly from Cassia Creek.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. 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 June 3, 2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on May 16th & 23rd, 2019

RECEIVED

JUN 03 2019

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ DM 6/3/2019

Maline, Denise

From: Edelmann, Frank <frank.edelmann@idfg.idaho.gov>
Sent: Sunday, June 02, 2019 12:31 PM
To: Maline, Denise
Cc: Thiessen, Joe
Subject: RE: Comment Letter for Transfer 82936 (Sears) - IDFG Review
Attachments: Comment Letter to F&G for 82936.docx; Transfer 82936 Sears.pdf

Dear Denise,

Thank you for the opportunity to review the attached water right transfer application (Application-for-Transfer – Point(s)-of-Diversion No. 82936) for Cassia Creek, Cassia County.

Please note that IDFG's mission is to protect, preserve, and manage Idaho's fish and wildlife resources for the public interest (Idaho Code 36-103), and the subject application is neither supported nor opposed.

Please consider IDFG's following technical comments/recommendations based on review of the attached application:

- Please confirm if the application proposes only to add a new Cassia Creek PoD (i.e. NESE, S24, T13, R25E) to the 4 existing water rights (i.e., 43-13610, 43-13612, 43-13614, 43-13616) with no changes to PoUs, Diversion Rates, or acres irrigated.
- Pump intakes should be screened with ¼" mesh or smaller to avoid entraining juvenile fish.
- Pumping should occur at a location within the creek away from potential fish refugia habitats (e.g., streambanks with overhanging vegetation, accumulations of woody debris, etc.).

Please let me know if you have questions or clarifications.

Sincerely,

Frank

Frank Edelmann
Environmental Staff Biologist
Idaho Department of Fish and Game
324 South 417 East, Suite 1
Jerome, Idaho 83338
(208) 324-4359



<https://idfg.idaho.gov/>

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Friday, May 10, 2019 11:28 AM
To: Edelmann, Frank <frank.edelmann@idfg.idaho.gov>
Subject: Comment Letter for Transfer 82936 (Sears)

Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 85501

Publication

Times News

Contact ID DEPARTMENT OF WATER RESOURCES

Address 1 650 ADDISON AVE W, STE 500

Address 2

City St Zip TWIN FALLS ID 83301

Phone 2087363033

Fax

Section Legals

SubSection

Category 50 Legal

Ad Key 85501-1

Keywords Transfer No 82936 Sears

Notes

PO Number

Rate

Order Price

Amount Paid

Amount Due

Legal Notice

87.57

0.00

87.57

Start/End Dates

Insertions

Size

05/16/2019 - 05/23/2019

2

54

Salesperson(s)

Taken By

Ruby Aufderheide

Ruby Aufderheide

Ad Proof

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GARY SPACKMAN, Director

Published on May 16th & 23rd, 2019

Proof of legal notice received
from Times News 5/14/2019

✓ dm 5.14.2019