

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82990**

This is to certify that: **HIGHWAY 78 TRUST**
PO BOX 220
STAR, ID 83669-0220

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>
57-1125	WR/DECREED	7/1/1900	0.260 cfs	15.6 af	N/A	N/A	GROUND WATER
57-1126	WR/DECREED	7/1/1954	0.260 cfs	15.6 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

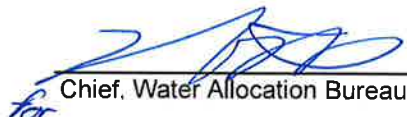
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
57-1125	NO	NO	NO	YES	NO	NO
57-1126	NO	NO	NO	YES	NO	NO

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>
57-1125	57-1125	0.260 cfs	15.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
57-1126	57-1126	0.260 cfs	15.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.260 cfs	31.2 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 26th day of April, 2019.



for Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 57-1125

Transfer No. 82990

WATER RIGHT NO. 57-1125
As Modified by Transfer No. 82990

In accordance with the approval of Transfer No. 82990, Water Right No. 57-1125 is now described as follows:

Right Holder: HIGHWAY 78 TRUST
 PO BOX 220
 STAR, ID 83669-0220

Priority Date: 7/1/1900

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	1/01	to 12/31	0.060 cfs	3.6 af
STOCKWATER	1/01	to 12/31	0.200 cfs	12.0 af
			0.260 cfs	15.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENE	Sec 2	Twp 01S Rge 03W OWYHEE County
GROUND WATER	SENE	Sec 2	Twp 01S Rge 03W OWYHEE County
GROUND WATER	NESE	Sec 2	Twp 01S Rge 03W OWYHEE County

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	03W	2				X									X				

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	03W	2				X									X				

CONDITIONS OF APPROVAL

1. Rights 57-1125 and 57-1126 when combined shall not exceed a total diversion rate of 0.26 cfs.
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 quantity of water decreed for this water right is not a determination of historical beneficial use.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 82990

WATER RIGHT NO. 57-1125
As Modified by Transfer No. 82990

CONDITIONS OF 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.



WATER RIGHT NO. 57-1126**As Modified by Transfer No. 82990**

In accordance with the approval of Transfer No. 82990, Water Right No. 57-1126 is now described as follows:

Right Holder: HIGHWAY 78 TRUST
PO BOX 220
STAR, ID 83669-0220

Priority Date: 7/1/1954

Source: GROUND WATER

BENEFICIAL USE

DOMESTIC
STOCKWATER

From

1/01
1/01

To

to 12/31
to 12/31

Diversion Rate

0.060 cfs
0.200 cfs
0.260 cfs

Diversion Volume

3.6 af
12.0 af
15.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENE	Sec 2	Twp 01S Rge 03W Owyhee County
GROUND WATER	SENE	Sec 2	Twp 01S Rge 03W Owyhee County
GROUND WATER	NESE	Sec 2	Twp 01S Rge 03W Owyhee 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	
01S	03W	2				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	
01S	03W	2				X													

CONDITIONS OF APPROVAL

1. Rights 57-1125 and 57-1126 when combined shall not exceed a total diversion rate of 0.26 cfs.
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 quantity of water decreed for this water right is not a determination of historical beneficial use.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 82990

WATER RIGHT NO. 57-1126
As Modified by Transfer No. 82990

CONDITIONS OF 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.

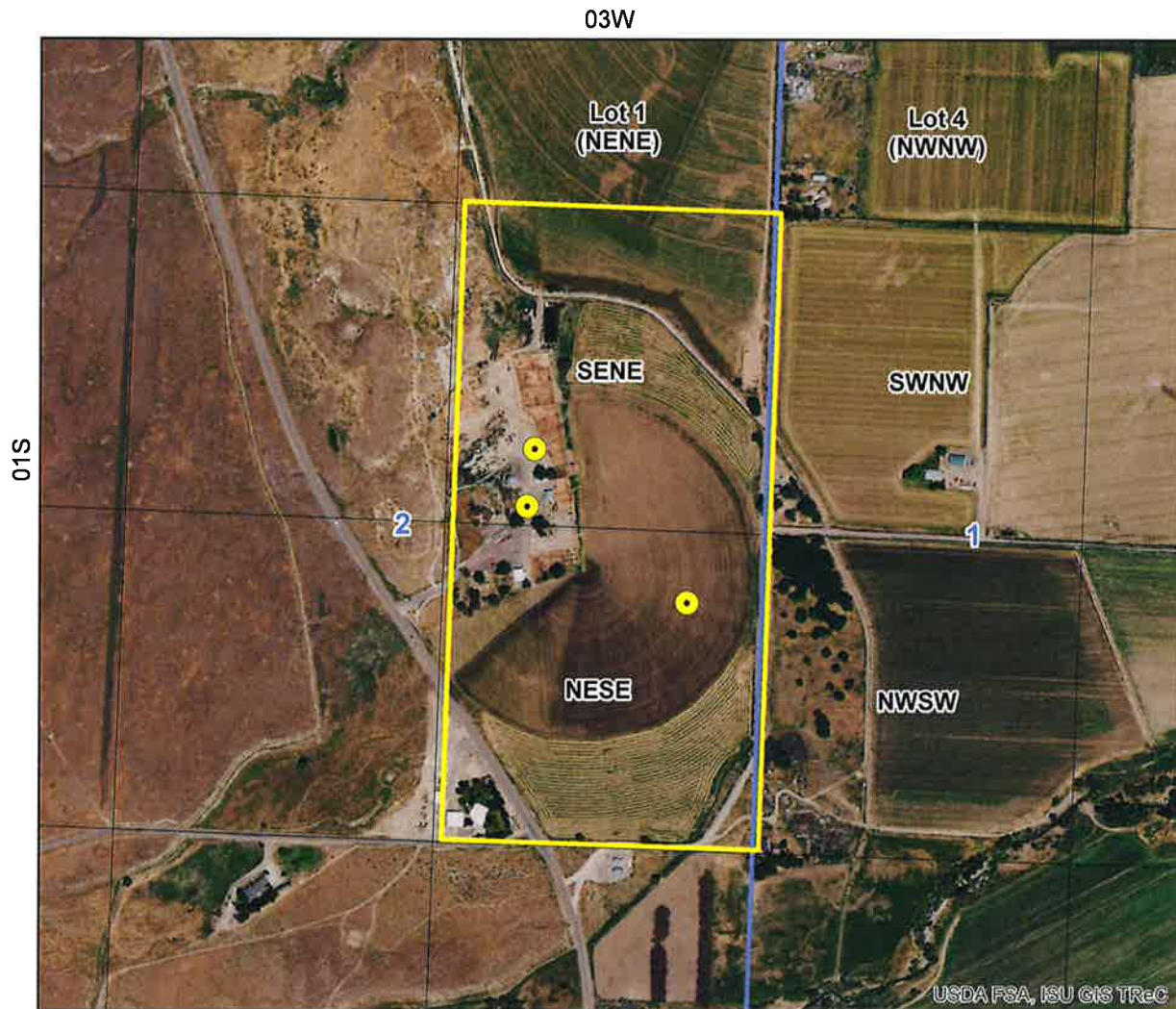


State of Idaho
Department of Water Resources

Attachment to Water Right Transfer 82990

57-1125 & 57-1126

This map depicts the STOCKWATER 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 0.075 0.15 0.3 Miles



JAN 29 2019

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split

1. **APPLICANT(S)** Highway 78 Trust Phone 208-608-1200
 2. **MAILING ADDRESS** PO Box 220 City Star
 State ID Zip 83669 Email gjohnston7@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 57-1125 AND 57-1126

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.26 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
N			SE	NE	02	01S	03W	OWYHEE	GROUND WATER	
Y			SE	NE	02	01S	03W	OWYHEE	GROUND WATER	D0080211
N			NE	SE	02	01S	03W	OWYHEE	GROUND WATER	

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Well so measuring device could be added.

- b. Who owns the property at the point(s) of diversion? Highway 78 Trust

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

Jocelyn Benton, Trustee
Print name and title if applicable

1/22/19
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by  Date 1/23/2019

Fee paid 500.00 Date 1/23/2019 Received by  Receipt # W047087

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

State of Idaho
Department of Water Resources

Attachment to Water Right License

57-1125

This map depicts the STOCKWATER 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.

03W



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

0 0.075 0.15 0.3 Miles



IDAHO DEPARTMENT OF WATER RESOURCES

1/15/2019

Proof Report

Water Right 57-1125

Owner Type **Name and Address**
 Current Owner HIGHWAY 78 TRUST
 PO BOX 220
 STAR, ID 83669-0220
 (208) 608-1200

Priority Date: 7/1/1900**Basis:** Decreed**Status:** Active

Source
 GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	1/01	12/31	0.200 CFS	12.0 AF
DOMESTIC	1/01	12/31	0.060 CFS	3.6 AF
	Total Diversion		0.260 CFS	15.6 AF

Source and Point(s) of Diversion

GROUND WATER	SWSENE	Sec. 2, Twp 01S, Rge 03W, OWYHEE County
GROUND WATER	NENESE	Sec. 2, Twp 01S, Rge 03W, OWYHEE County

Place Of Use

STOCKWATER within OWYHEE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	03W	2				X									X				

DOMESTIC within OWYHEE County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	03W	2				X									X				

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NO. 57-01126 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.26 CFS.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. STOCKWATER, 300 DAIRY CATTLE.
RIGHT NO. 57-01126 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Comments:

1. WERNER 9/10/1991 WELLS
THE PREVIOUS REYNOLDS CREEK ADJ. INDICATED HOT WELL. THIS MAY PERTAIN TO ONE OR BOTH WELLS. THE CLAIM MENTIONED IN REMARKS (57-01126) ONLY HAS

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

1/15/2019

ONE POINT OF DIVERSION WHICH IS LOCATED IN THE SWSENE, SECTION 2, T1S, R3W, AND IT DOES NOT INDICATE ANYTHING ABOUT IT BEING A HOT WELL SO IT MAY BE "ASSUMED" THAT THE WELL IN THE NENESE, SECTION 2, T1S, R3W IS THE HOT WELL.

2. DSMITH 1/23/1996 NAME AND/OR ADDRESS CHANGE
THE NAMES OR ADDRESSES IN THE NAME FILE WERE CHANGED WITHOUT THE ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. THE CHANGE FOR A K-OWNER OR ATTORNEY MAY HAVE BEEN MADE WITHOUT A WATER RIGHT OWNER CHANGE. *NAME/ADDRESS CONFORMED TO AVOID DUPLICATE MAILING LABELS

3. D&S-DSHA 10/2/1996 D&S CONDITION CODE UPDATE
CONDITION CODE N11 ADDED CONDITION CODE N13 ADDED

4. KWALKER 11/27/1996 CLAIM NOT DIMINIMUS
THIS RIGHT WAS DECREED FOR 0.26 CFS AND 15.6 AFA THEREFORE IT CANNOT BE PROCESSED AS A DIMINIMUS RIGHT EVEN THOUGH THE FEE PAID WAS ONLY \$25.00. I WAS INSTRUCTED NOT TO COLLECT MORE MONEY AT THIS POINT.

5. SSHerman 6/18/1997 OWNERSHIP CHANGE
FORM 42-248/42-1409(7) OWNERSHIP CHANGE, JACKIE BENSON REPLACED PATRICIA A BENSON.

Dates and Other Information

Decreed Date: 12/29/1997
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 57R
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.260		313.0
57-1125 ,57-1126		

SubCase:

N/A

Water Supply Bank:

N/A

1/15/2019

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HIGHWAY 78 TRUST PO BOX 220 STAR, ID 83669-0220 (208) 608-1200

Status: Active

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	1/01	12/31	0.200 CFS	12.0 AF
DOMESTIC	1/01	12/31	0.060 CFS	3.6 AF
	Total Diversion		0.260 CFS	15.6 AF

GROUND WATER **SWSENE** Sec. 2, Twp 01S, Rge 03W, Owyhee County

[illegible][illegible]

1.		USE OF THIS RIGHT WITH RIGHT NO. 57-01125 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 0.26 CFS.
2.	N11	THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3.		STOCKWATER, 300 DAIRY CATTLE RIGHT NO. 57-01125 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

1. DSMITH 1/23/1996 NAME AND/OR ADDRESS CHANGE
THE NAMES OR ADDRESSES IN THE NAME FILE WERE CHANGED WITHOUT THE
ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. THE CHANGE FOR A
K-OWNER OR ATTORNEY MAY HAVE BEEN MADE WITHOUT A WATER RIGHT OWNER

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

1/15/2019

CHANGE. *NAME/ADDRESS CONFORMED TO AVOID DUPLICATE MAILING LABELS

2. D&S-DSHA 10/2/1996 D&S CONDITION CODE UPDATE
CONDITION CODE N11 ADDED CONDITION CODE N13 ADDED
3. KWALKER 11/27/1996 CLAIM NOT DIMINIMUS
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A. BENSON.

Dates and Other Information

Decreed Date: 12/29/1997
Civil Case Number: 39576
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Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
0.260		313.0
57-1125 ,57-1126		

SubCase:

N/A

Water Supply Bank:

N/A

Instrument # 297621

MURPHY, OWYHEE, IDAHO

10-22-2018 09:26:26 AM No. of Pages: 4

Recorded for : HWY 78 TRUST

ANGELA BARKELL

Fee: 15.00

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

WARRANTY DEED

FOR VALUE RECEIVED, John Hepton, Trustee of the Highway 78 Trust dated August 28, 2017, the Grantor, does hereby grant, bargain sell and convey unto Jocelyn Benton, Trustee of the Highway 78 Trust dated August 28, 2017, the Grantee, whose current address is PO Box 220, Star, ID 83669, the following described premises, in Owyhee County, Idaho, TO WIT:

See addendum A

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances EXCEPT: Subject to all existing patent reservations, easements, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes, assessments, including irrigation and utility easements (if any) for the current year, which are not due and payable, and that Grantors will warrant and defend the same from all lawful claims whatsoever.

Dated: October 12, 2018

John Hepton, as Trustee of the Highway 78 Trust dated August 28, 2017

State of Idaho)
)ss.
County of Canyon)

On this 12 day of October 2018, before me, a notary public in and for the State of Idaho, personally appeared before me, John Hepton, known to me to be the Trustee of the Highway 78 Trust dated August 28, 2017, the person whose name is subscribed to the within instrument as Trustee and acknowledged to me that he executed the foregoing instrument on behalf of said Trust.



Notary Public in and for the State of Idaho
Residing at:ampa
My Commission Expires: 1/25/22

ADDENDUM A

Parcel I:

A parcel of land located in the Northeast Quarter of the Southeast Quarter, Section 2, Township 1 South, Range 3 West, Boise Meridian, Owyhee County, Idaho.

Being further described as follows:

Beginning at a point, from which the East Quarter corner bears North 88°27'01" East a distance of 1131.77 feet; thence South 26°52'49" East a distance of 234.16 feet; thence South 45°56'54" West a distance of 264.50 feet; thence North 26°52'49" West a distance of 234.13 feet; thence North 45°56'27" East a distance of 264.51 feet to the Point of Beginning.

Basis of Bearings:

The East line of the Northeast Quarter of Section 2, Township 1 South, Range 3 West, Boise Meridian, derived from found monuments and taken as South 00°37'51" West.

Parcel II:

(Easement for ingress and egress)

A parcel of land located in the Northeast Quarter of the Southeast Quarter, Section 2, Township 1 South, Range 3 West, Boise Meridian, Owyhee County, Idaho, being further described as follows:

Beginning as a point on the West line of the Northeast Quarter of the Southeast Quarter (formerly described as the Southeast Quarter of the Northeast Quarter) of said Section 2 also being the Northeasterly right-of-way of State Highway 78, from which the East Quarter corner of said Section 2 bears North 66°35'23" East a distance of 1,459.75 feet; thence continuing along said West line North 00°37'36" East a distance of 351.05 feet; thence leaving said West line North 45°56'27" East a distance of 284.66 feet; thence South 26°52'49" East a distance of 29.31 feet; thence South 45°56'27" West a distance of 264.32 feet; thence South, 00°37'36" West to a point on said right-of-way a distance of 380.02 feet; thence continuing along said right-of-way North 33°55'27" West a distance of 49.37 feet to the Point of Beginning.

Basis of Bearings:

The East line of the Northeast Quarter of Section 2, Township 1 South, Range 3 West, Boise Meridian, derived from found monuments and taken as South 00°37'51" West.

Parcel III:

A parcel of land located in the Southeast Quarter of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 2, Township 1 South, Range 3 West, Boise Meridian, Owyhee County, Idaho. Being further described as follows:

Beginning at a point on the East line of said Section 2, from which the Northeast corner of said Section 2 bears North 00°37'51" East a distance of 2051.26 feet; thence along said East line, South 00°37'51" West to the South 1/16 corner, a distance of 1,735.07 feet; thence along the South line of the Northeast Quarter of the Southeast Quarter of said Section 2, North 89°14'17" West to the Northeasterly right-of-way of State Highway 78, a distance of 836.68 feet; thence along said right-of-way the following two courses, from a tangent which bears North 35°57'08" West, along a curve to the right with a radius of 1,333.40 feet and a central angle of 03°48'26" an arc length of 88.60 feet (with a chord bearing of North 34°02'55" West, and a chord distance of 88.59 feet); North 33°55'27" West to the West line of the Northeast Quarter of the Southeast Quarter of said Section 2, a distance of 786.71 feet; thence along said West line of the Northeast Quarter of the Southeast Quarter, North 00°37'36" East a distance of 351.05 feet; thence leaving said West line of the Northeast Quarter of the Southeast Quarter, North 45°56'27" East a distance of 20.15 feet; thence South 26°52'49" East a distance of 234.13 feet; thence North 45°56'54" East a distance of 264.50 feet; thence North 26°52'49" West a distance of 234.16 feet; thence North 45°56'27" East a distance of 187.83 feet; thence North 00°37'32" East to the centerline of a concrete irrigation ditch, a distance of 859.90 feet; thence along said centerline of concrete ditch the following 8 courses: South 85°16'31" East a distance of 40.16 feet; South 89°44'51" East a distance of 176.30 feet; South 85°42'39" East a distance of 70.84 feet; South 80°31'11" East a distance of 40.51 feet; South 79°05'19" East a distance of 97.39 feet; South 70°49'27" East a distance of 79.17 feet; South 51°51'04" East a distance of 80.10 feet; South 45°02'32" East a distance of 610.21 feet to the Point of Beginning.

Parcel IV:

A parcel of land located in the Southeast Quarter of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 2, Township 1 South, Range 3 West Boise Meridian, Owyhee County, Idaho. Being further described as follows:

Beginning at the Northeast 1/16 corner of said Section 2, from which the Northeast corner of said Section 2 bears

North 49°50'04" East a distance of 1761.42 feet; thence
South 89°11'30" East along the North line of said Southeast Quarter of the
Northeast Quarter, a distance of 118.59 feet to the centerline of a concrete irrigation
ditch; thence along said centerline of the following 5 courses;
South 15°04'11" East a distance of 247.71 feet;
South 26°31'18" East a distance of 51.91 feet;
South 43°32'41" East a distance of 24.97 feet;
South 51°38'48" East a distance of 82.98 feet;
South 69°24'22" East a distance of 46.39 feet; thence
South 00°37'32" West, a distance of 859.90 feet; thence
South 45°56'27" West to the West line of said Northeast Quarter of the Southeast
Quarter of Section 2, a distance of 472.49 feet; thence along said West line of the
Northeast Quarter of the Southeast Quarter of Section 2,
North 00°37'36" East to the Center East 1/16 corner, a distance of 245.79 feet;
thence along the West line of the Southeast Quarter of the Northeast Quarter of said
Section 2,
North 00°37'32" East a distance of 1,315.94 feet to the Point of Beginning.

Basis of Bearings:

The East line of the Northeast Quarter of Section 2, Township 1 South, Range 3
West, Boise Meridian, derived from found monuments and taken as South
00°37'51" West.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 26, 2019

HIGHWAY 78 TRUST
PO BOX 220
STAR, ID 83669-0220

Re: Application for Transfer No.: 82990
Water Right No(s): 57-1125, 57-1126

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Rights. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Rights 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) 334-2190

Sincerely,


Anna Kaiser

For Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 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.: 82990

Water Right No(s): 57-1125, 57-1126

HIGHWAY 78 TRUST
PO BOX 220
STAR ID 83669-0220



Anna Kaiser
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

TO: Transfer No. 82990
FROM: Patrick Kelly
DATE: 2/26/2019
RE: Evaluation of Application

Summary of Information Submitted

Highway 78 Trust filed transfer no. 82990 to add a third well/point of diversion to water rights 57-1125 and 57-1126. The new well has already been drilled under tag# D0080211. This transfer was filed once it was discovered that the property owner did not have a third POD on the existing water rights. The applicant has filed application for permit 57-11996 to get authorization to divert additional water for a total of 999 cattle.

According to D0080211 well log, the new point of diversion is located -116 39.244, 43 21.930; outside of any GWMA or water district.

Authority to File

The application was filed in the name of Highway 78 Trust and signed by Jocelyn Benton. Current county taxlot data shows Highway 78 Trust owns the property pertinent to the water rights. The water rights are in the name of the trust.

Water Right Validity

57-1125 and 57-1126 were decreed in 1997. 2017 aerial imagery shows cattle fields are present within the place of use. Concerns over validity are not present at this time.

Overlap Analysis

57-1125 and 57-1126 are the only water rights on the property. No other rights should be considered for this transfer.

Injury to Other Water Rights

None anticipated. Stockwater use has been occurring as far back as I can observe using available imagery. This application qualifies for approval without advertising since the change does not affect the original or hydraulically-connected source.

Enlargement of Use

The new point of diversion was drilled in the immediate vicinity of the existing wells and not considered an improvement to the source. Changes to the limits already authorized by the water right are not occurring and diversion from all three wells will still be restricted to 0.26 cfs post transfer.

Local Public Interest

No information has been made available to suggest a conflict with public interest.

Beneficial Use/Conservation of Water Resources

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.