

WITHDRAWN

Page 1 of 3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82873

This is to certify that: AMERICAN HOMES LLC
7800 W ALFALFA RD
MELBA, ID 83641-6036

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>
63-10738	WR/LICENSE	12/2/1988	0.620 cfs	139.5 af	N/A	31.0	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>
63-10738	NO	YES	YES	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>
63-10738	63-10738	0.620 cfs	139.5 af	N/A	31.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.620 cfs	139.5 af	N/A	31.0		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 April, 2019.


Chief, Water Allocation Bureau

Transfer No. 82873

WATER RIGHT NO. 63-10738

As Modified by Transfer No. 82873

In accordance with the approval of Transfer No. 82873, Water Right No. 63-10738 is now described as follows:

Right Holder: AMERICAN HOMES LLC
7800 W ALFALFA RD
MELBA, ID 83641-6036

Priority Date: 12/2/1988

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	3/15	to 11/15	0.620 cfs	139.5 af
			0.620 cfs	139.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENE	Sec 36 Twp 01N Rge 02W CANYON County
GROUND WATER	SENE	Sec 36 Twp 01N Rge 02W CANYON County
GROUND WATER	SWNE	Sec 36 Twp 01N Rge 02W CANYON County
GROUND WATER	SWNE	Sec 36 Twp 01N Rge 02W CANYON County
GROUND WATER	SENE	Sec 36 Twp 01N Rge 02W CANYON 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	
01N	02W	36			14.0	11.0				6.0									31.0

POU Total Acres: 31.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 139.5 af at the field headgate for the place of use.

WATER RIGHT NO. 63-10738

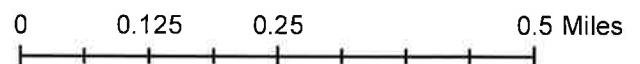
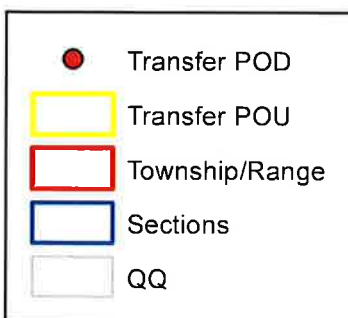
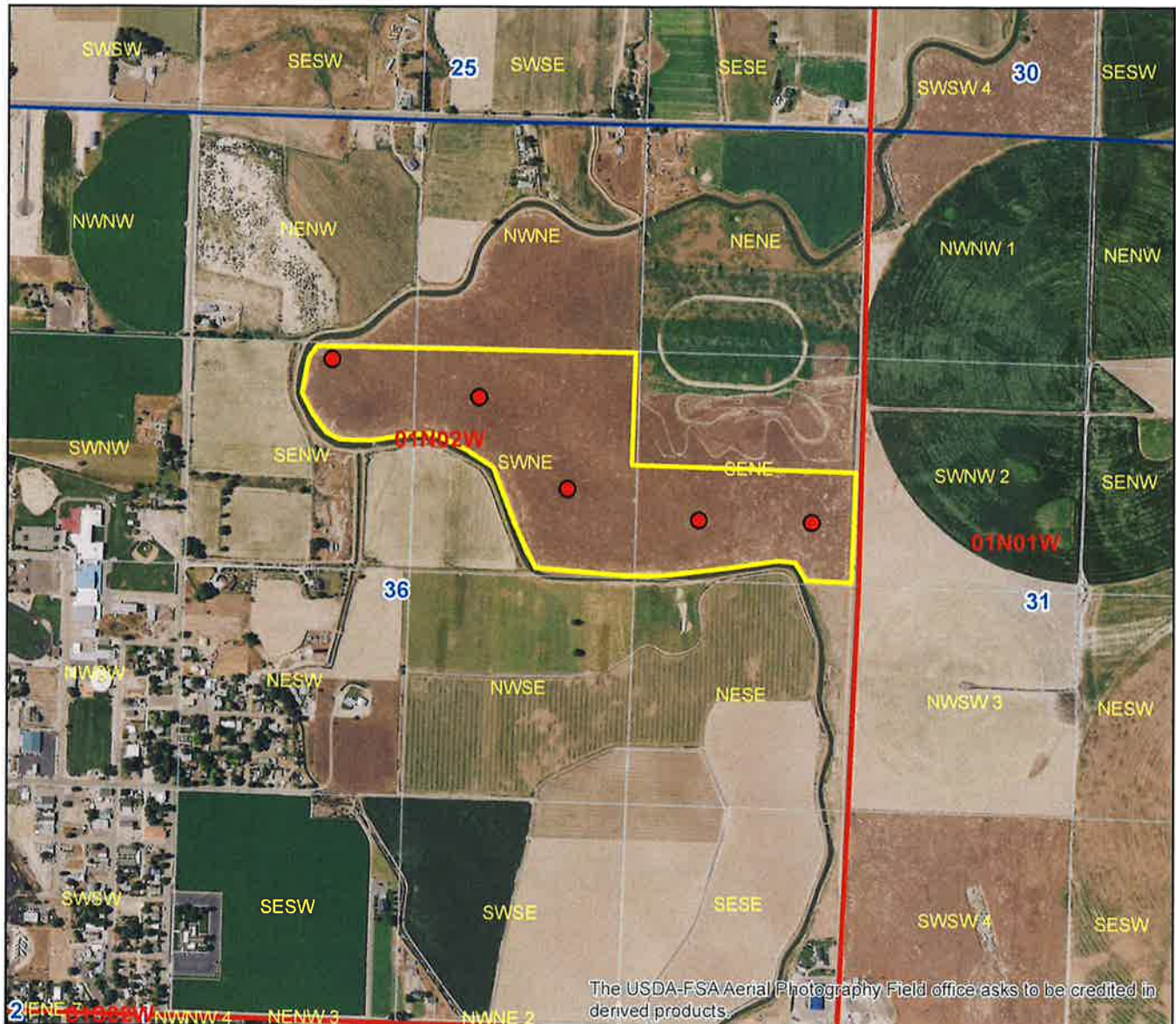
As Modified by Transfer No. 82873

CONDITIONS OF APPROVAL

3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
4. 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.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date of this approval.
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 diversion and use of water described in Transfer 82873 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.
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 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.

State of Idaho
Department of Water Resources
Attachment to Transfer No. 82873
Water Right(s): 61-10738

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





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 16, 2019

AMERICAN HOMES LLC
7800 W ALFALFA RD
MELBA ID 83641-603

Re: Transfer No.: 82873
Water Right Nos: 63-10738

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

Anna Kaiser

For

Nick Miller

Regional Manager

Enclosures

CC:

SPENCER CROSLAND

7800 W ALFALFA RD

MELBA ID 83641

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2019 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the persons listed below:

Re: Transfer No.: 82873
Water Right No.: 63-10738

KENNETH EDWARDS
NOLA EDWARDS
12584 DEER RIDGE TRL
NAMPA ID 83686-7807

SPENCER CROSLAND
7800 W ALFALFA RD
MELBA ID 83641



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. 82873

FROM: Phill Hummer

DATE: 01/08/2019

RE: Evaluation of Application

The applicant proposes to change water right no. 63-I0738 from an agricultural irrigation right to an irrigation right used for the common areas of developed lots. The proposal involves changing the place of use to a different property and changing the point of diversion to 5 proposed new wells. This would allow individual lot owners to claim their portions and have their own wells once the lots are sold.

The proposed new place of use is about 0.5 miles northeast of Melba, near the intersection of S Can-Ada Rd and Melba Rd.

The contact person for the applicant is Spencer Crosland one of the managing members of American Homes LLC.

Summary of Information Submitted

Authority to File:

Spencer Crosland is listed on the 2018 annual report form (IDSOS webpage) for American Homes LLC as the manager. Supporting documents with the ownership change submitted with the transfer application shows American Homes LLC has entered into a purchase agreement with Blaine Hoagland, Mark Hoagland, and Kenneth Hoagland (current owners) to purchase water right no. 63-I0738 pending approval of the transfer application. Based on this information the transfer should be completed before the ownership change. Once the sale is final the applicant can submit the finalized sale agreement and the ownership change can be completed. If the sale is not completed the changes made to the water right through this transfer process can be reversed at the request of the owners of the right.

Water Right Validity and Enlargement:

The right was licensed on 07/14/1992 so an analysis of the use for the last five years must be conducted to determine the validity. The water right license does not have supplemental conditions and they were not on the permit. However, the original application indicates that right no. 63-I0738 was intended to be used as a supplemental source to surface water delivered by Boise Kuna Irrigation District. The beneficial use field report also indicates that the right had been historically used along with surface water. In addition, the applicant submitted information on 01/09/2019 that included a written statement from one of the right owners. The statement indicates the well had been used "on and off" during the last five years. Power records submitted with the statement shows ground water from the well was pumped in May, September, and October. Since there was no groundwater use during the main part of the irrigation season (June, July, and August), the

historic use of the water right was most likely as a supplemental source. For these reasons the right should be considered supplemental and therefore valid for transfer as a supplemental water right.

The proposed change to the place of use does not move the right outside the delivery area of Boise Kuna Irrigation District (BKID), which is the delivery organization that provides surface water. In a phone conversation with BKID, on 4/3/19, Allen Bradbury confirmed that they deliver 31.19 acres to American Homes LLC. Also spoke with Boise Project Board of Control, they confirmed that calls were made for account #870 to deliver water to American Homes LLC. The right will remain supplemental and supplemental conditions were added. Continued use as a supplemental right should not enlarge the use of groundwater. The proposed change would not be an enlargement of the ground water use if the right remains used as a supplemental right to surface water.

Injury to Other Water Rights:

Both the current point of diversion and place of use and the proposed locations are outside the South Ada County Ground Water and the Melba Surface Water Areas of Concern. There has been some sufficiency of supply and injury concerns related to new appropriations in these areas. There were no protests filed against this transfer application following advertisement and it proposes changes to a supplemental right that will remain supplemental. Supplemental conditions were added to the right. There are no injury concerns at this time.

Local Public Interest:

For these reasons this application proposes a change consistent with the local 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

Water Right Overlap

The applicant intends to drill 5 new wells to be used as points of diversion for this water right. No other rights are intended to be used from these wells. There are numerous water rights held by irrigation delivery organizations that overlap the current and proposed place of use.

Conditions

If approved the following changes should be made to the conditions of water right no. 6I-I0738

- Add condition 046 because the proposed new POD's are groundwater wells.
- Add condition 01M.
- Add standard transfer conditions T07 and T08.
- Add standard supplemental conditions 943 and WB7.
- Change inactive condition R32 to R6I, used volume only condition since also using supplemental conditions that specify the rate limit.

No protests were filed and other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

RECEIVED

JAN 09 2019

WATER RESOURCES
WESTERN REGION

To whom it may concern:

I, Mark w Hoagland have used the water from the well in question on and off during the last five years. I have furnished a bill from Idaho Power for the year 2015. In 2016 or 2017 I had Southern Idaho Electric company replace the panel due to a lightning strike so I could continue to use it that year.

Mark w Hoagland
9 Jan 2019



www.idahopower.com

Questions? Contact us at:
 PO BOX 70, Boise, ID 83707.
 Or call (208) 388-2323 (Treasure Valley).
 Se habla español.
 For faster service please call
 Tuesday - Friday, 7:30 a.m. to 6:30 p.m.

Customer Name: KENNY HOAGLAND
 Account Number: 2201466733
 Billing Date: 05/08/2015
 Print Date: 05/08/2015

Service Agreement No: 0030060087

Service Location: 01S02W0109 / MELBA, ID

Next Read Date: 06/05/2015
 25 HP

Meter Number	Service Period From	Service Period To	Number of Days	Reading Type	Meter Readings Previous	Meter Constant	kWh Used
41020514	04/08/15	05/06/15	29	Regular	39515	40575	1060

Billing kW	BLC
26	0

Irriation Service Schedule 24S

Service Charge	\$3.50
Energy Charge 1,060 kWh @ \$.066489 per kWh	\$70.48
Annual Adjustment Mechanism	\$5.58
Energy Efficiency Services	\$2.96
Current Charges - Electric Service	\$82.52

CR = Credit kWh = Kilowatt-hour PCA = Power Cost Adjustment kW = Kilowatt BLC = Basic Load Capacity G = Generation

Your Electric Use Pattern





Questions? Contact us at:
PO BOX 70, Boise, ID 83707.
Or call (208) 388-2323 (Treasure Valley).
Se habla español.
For faster service please call
Tuesday - Friday, 7:30 a.m. to 6:30 p.m.

www.idahopower.com

Customer Name: KENNY HOAGLAND
Account Number: 2201466733
Billing Date: 06/09/2015
Print Date: 06/09/2015

Service Agreement No: 0030060087

Service Location: 01S02W0109 / MELBA, ID

Next Read Date: 07/07/2015
25 HP

Meter Number	Service Period		Number of Days	Reading Type	Meter Readings		Meter Constant	kWh Used
	From	To			Previous	Current		
36278269	05/16/15	06/05/15	21	Regular	0	926	1	926
41020514	05/07/15	05/15/15	9	Regular	40575	40575	1	0

Billing kW	BLC
26	0

Irrigation Service Schedule 24S

Service Charge \$22.00
Demand Charge 26 @ \$7.01 per kW \$182.26
Energy Charge 926 kWh @ \$0.057916 per kWh \$53.63
Annual Adjustment Mechanism \$4.69
Energy Efficiency Services \$10.32

Current Charges - Electric Service

\$272.90

CR = Credit kWh = Kilowatt-hour PCA = Power Cost Adjustment kW = Kilowatt BLC = Basic Load Capacity G = Generation

Your Electric Use Pattern

Avg kWh
Per Day

182.1

29.7

30.8

36.5

Jun-14 Jul-14 Aug-14 Sep-14 Oct-14 Nov-14 Dec-14 Jan-15 Feb-15 Mar-15 Apr-15 May-15 Jun-15

272.90

95.50

368.40

29512 1855605

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

RECEIVED

JAN 30 2019

WATER RESOURCES
WESTERN REGION

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34643

DALE W PIERCY
RAMONA PLAZA
31367 HWY 95
PARMA, ID 83660

Point of Diversion NWSW S16 T05N R05W CANYON
County Source GROUND WATER Tributary BOISE RIVER
Point of Diversion NESW S16 T05N R05W CANYON
County Source WASTE WATER Tributary BOISE RIVER
Use: DIVERSION TO STORAGE 01/01 to 12/31 1 CFS
Use: STOCKWATER STORAGE 01/01 to 12/31 7.3 AF
Use: WILDLIFE STORAGE 01/01 to 12/31 4.6 AF
Total Diversion: 1 CFS 7.3 AF

Date Filed: 11/28/2018

Place Of Use: WILDLIFE STORAGE, STOCKWATER
STORAGE

T05N R05W S16 NWSW

Water bearing zone to be appropriated is from 0 to 8 feet.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82873**

AMERICAN HOMES LLC, 7800 W ALFALFA RD, MEL-
BA, ID 83641-6036; has filed Application No. 82873 for
changes to the following water rights within CANYON County
(s): Right No(s). 63-10738; 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: The applicant proposes to add 5 new
wells as points of diversion and change the place of use to
property near the intersection of S Can-Ada Rd and Melba
Rd.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources; Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 2/4/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

January 17, 24, 2019

1855605

**AFFIDAVIT OF PUBLICATION
STATE OF IDAHO**

County of Canyon

Sharon Jessen
of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
01/17/2019 01/24/2019

Sharon Jessen
STATE OF IDAHO

County of Canyon

On this 24th day of January in the year of 2019 before me a Notary Public, personally appeared Sharon Jessen, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Carmen Melan
Notary Public for Idaho

Residing at Canyon County

My Commission expires 06/28/2023

