

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82862**

This is to certify that: **SOUTH VIEW DAIRY LLC**
PO BOX 200
WENDELL, ID 83355-0200

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>
36-2373	WR/DECREED	1/16/1959	3.220 cfs	1424.0 af	N/A	356.0	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>
36-2373	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
36-2373	36-2373	3.220 cfs	1424.0 af	N/A	356.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.220 cfs	1424.0 af	N/A	356.0		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 31ST day of December, 2018.



Southern Region Manager

WATER RIGHT NO. 36-2373**As Modified by Transfer No. 82862**

In accordance with the approval of Transfer No. 82862, Water Right No. 36-2373 is now described as follows:

Right Holder: SOUTH VIEW DAIRY LLC
PO BOX 200
WENDELL, ID 83355-0200

Priority Date: 1/16/1959

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

3/15

to

To

11/15

Diversion Rate

3.220 cfs

3.220 cfs

Diversion Volume

1424.0 af

1424.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SWNESE

Sec 36 Twp 08S Rge 18E JEROME 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	
08S	18E	36	16.0	34.0	40.0	36.0									40.0	40.0	40.0	40.0	286.0
08S	19E	31							12.0	10.0	27.0	21.0							70.0
									L 2			L 3							

POU Total Acres: 356.0

CONDITIONS OF APPROVAL

1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.130.
2. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. Prior to the diversion and use of water under Transfer approval 82862, the right holder shall install and maintain an acceptable measuring devices at the authorized point of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.

Transfer No. 82862

WATER RIGHT NO. 36-2373

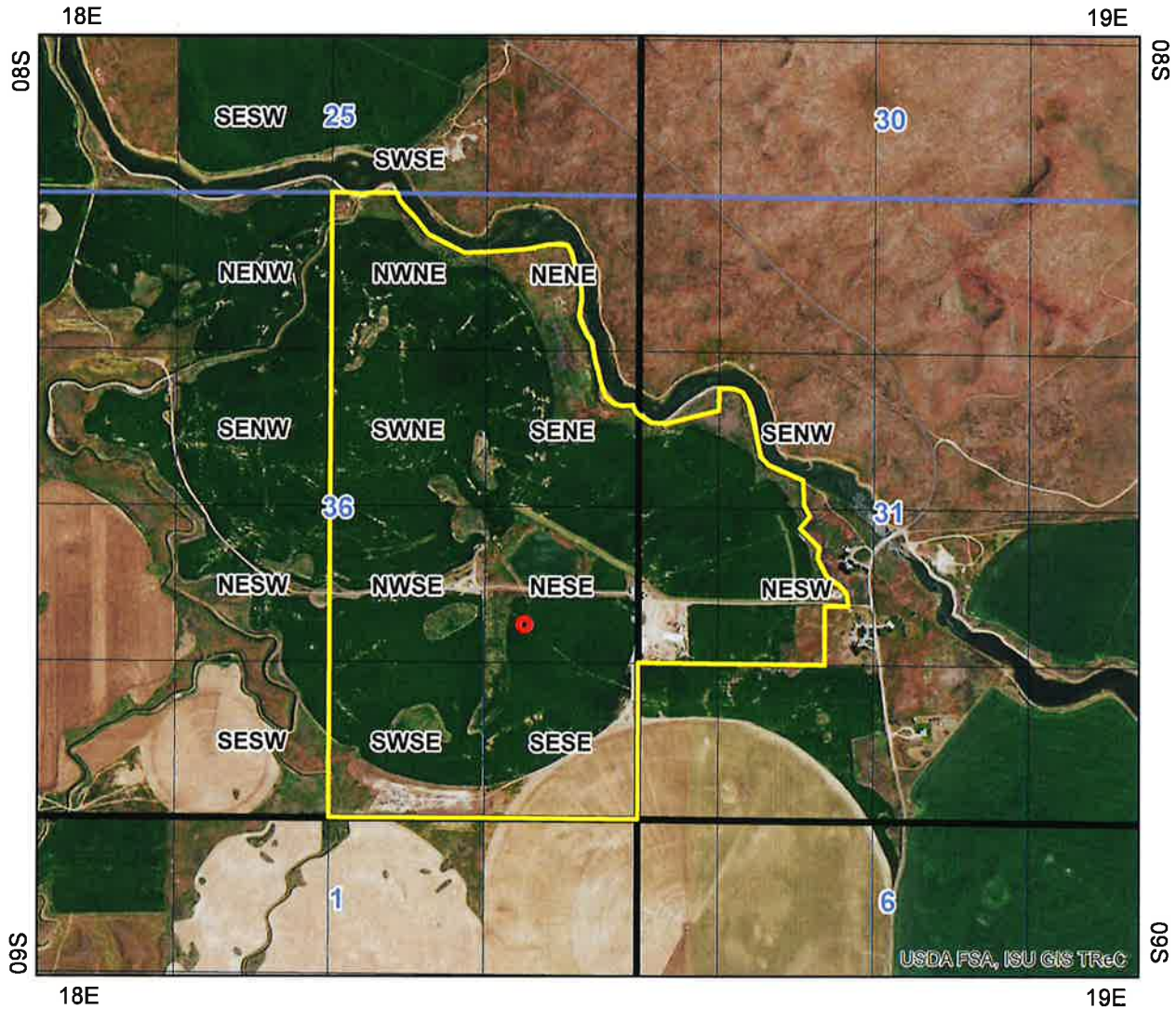
As Modified by Transfer No. 82862

CONDITIONS OF APPROVAL

5. 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.
6. 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 place of use.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources
Attachment to Transfer # 82862
36-2373

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.



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

0 0.175 0.35 0.7 Miles



RECEIVED
DEC 07 2018
DEPT. OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 82862

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Name of Applicant(s) SOUTH VIEW DAIRY LLC

Check whether each item below is attached (Yes) or not applicable (N/A) for the proposed transfer.

Yes N/A *Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.)
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Other. Please describe: _____

RECEIVED
DEC 07 2018
DEPT OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant SOUTH VIEW DAIRY LLC Phone (208) 536-1100
Mailing Address PO BOX 200, WENDELL ID 83355-0200 Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☒ No Representative

Name of Representative _____ Phone _____
Mailing Address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

William De Jong William De Jong 12-4-2018
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

- | | | | | | | | |
|----|---------|-------|-----|-----|---------|---------------|---------------|
| 1. | Right | Split | POD | POU | Add POD | Period of Use | Nature of Use |
| | 36-2373 | No | No | Yes | No | No | No |
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**

Application proposes moving 40 acres that were decreed in SESE of Sec 36, Twp 08S, Rge 19E to the actual
place of use in the SESE of Sec. 36, Twp 08s Rge18E. No actual physical change, record correction only.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT TO A SEPARATE SYSTEM, DESCRIBE PORTIONS TO BE CHANGED TO A SEPARATE SYSTEM AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
36-2373	3.220 cfs	1424.0 af	N/A	356.0		N/A	N/A	N/A	N/A
COMBINED									
TOTALS	3.220 cfs	1,424.0 af	N/A	356.0		N/A	N/A	N/A	N/A

2. Total amount of water proposed to be transferred or changed 3.22 cubic feet per second and/or _____ acre-feet per annum

3. Points(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5.**

4. Place of Use:

- ☐ No changes to place of use are proposed. (Proceed to #5.)
- ☒ As shown in Part 1.
- ☐ See Attachment.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes**

Proposed Water Right No. 36-2373

Current Water Right Owner
SOUTH VIEW DAIRY LLC
PO BOX 200
WENDELL, ID 83355-0200

Priority Date: 1/16/1959

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/15	11/15	3.220 CFS	1424.0 AFA	
Total Diversion			3.220 CFS	1424.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

SWNESE

Sec. 36 Twp 08S Rge 18E JEROME County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	18E	36	16.0	34.0	40.0	36.0									40.0	40.0	40.0	40.0	286.0
08S	18E	31							12.0	10.0	27.0	21.0							70.0
									L 2			L 3							

POU Total Acres: 356.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. 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

Existing well with working flowmeter and lockable device

- b. Who owns the property at the point(s) of diversion

Applicant

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

No, ☐ If Yes, ☒

Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: Mortgage carried by Metropolitan Life Insurance Co.

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

No physical change.

- e. Describe the use of any other water right(s) for the same purpose or land, or same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

- f. 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 leased to the Water Supply Bank,
currently used in a mitigation plan limiting the use of water under the right, or
currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 36-2373

Current Water Right Owner
SOUTH VIEW DAIRY LLC
PO BOX 200
WENDELL, ID 83355-0200

Priority Date: 1/16/1959

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/15	11/15	3.220 CFS	1424.0 AFA	
Total Diversion			3.220 CFS	1424.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

SWNESE

Sec. 36 Twp 08S Rge 18E JEROME County

Describe the proposed diversion system

WELL, PUMP

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08S	18E	36	16.0	34.0	40.0	36.0									40.0	40.0	40.0		246.0
08S	19E	31							12.0	10.0	27.0	21.0							70.0
									L 2			L 3							
08S	19E	36																40.0	40.0

POU Total Acres: 356.0

Conditions/Remarks:

1. THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**. If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

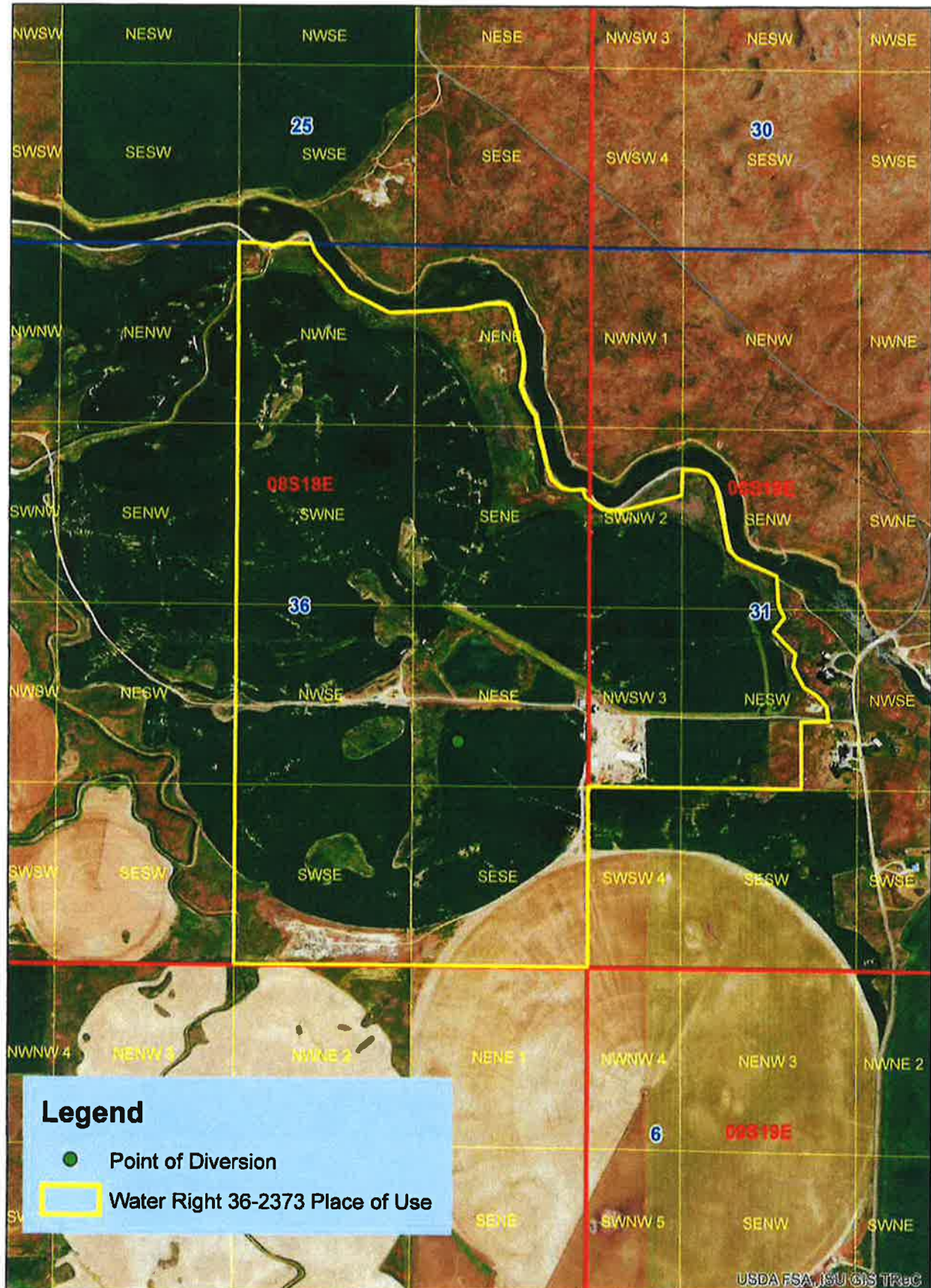
☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation.
Label it **Attachment #8b**

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

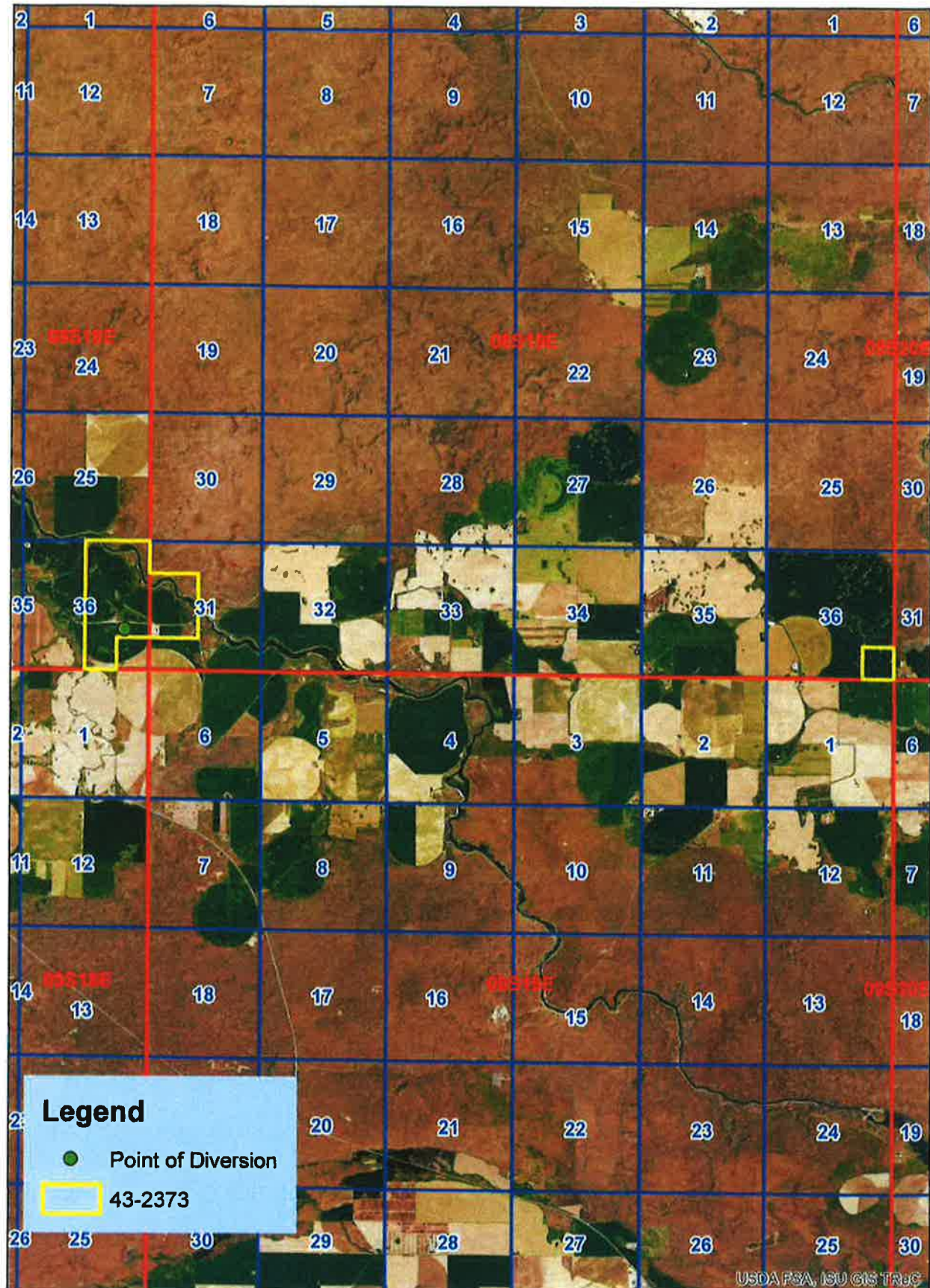
Transfer Contains 7 pages and _____ attachments.
 Received By C. SKINNER Date 12/7/18 Prelim. Check By _____ Date _____
 Fee Paid \$ 50.00 Date 12/7/18 Received By C. SKINNER Receipt # 5037065
 Add'l Fee Paid _____ Date _____ Received By _____ Receipt # _____

Attachment 7A



TRANSFER 82862

Attachment 7B



TRANSFER 82862

251



CERTIFICATE OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

FILED EFFECTIVE

2014 JAN 22 PM 4:07

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

South View Dairy, LLC

2. The complete street and mailing addresses of the initial designated office:
242 W. Main Street, Wendell, Idaho 83355

(Street Address)

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

William J. DeJong

(Name)

242 W. Main Street, Wendell, Idaho 83355

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Address

William J. DeJong

P.O. Box 200, Wendell, Idaho 83355

Renee E. DeJong

P.O. Box 200, Wendell, Idaho 83355

5. Mailing address for future correspondence (annual report notices):
P.O. Box 200, Wendell, Idaho 83355

6. Future effective date of filing (optional): _____

Signature of a manager, member or authorized person.

Signature

Typed Name: William J. DeJong, Manager

Signature

Typed Name: Renee E. DeJong, Manager

Secretary of State use only

IDAHO SECRETARY OF STATE

01/23/2014 05:00

CK: 8567 CT: 85549 BH: 1487171

1 @ 38.00 = 38.00 CONVERSION # 2

001.org, Inc. Rev. 07/2010

TRANSFER 82862

W133465



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 4, 2019

SOUTH VIEW DAIRY LLC
PO BOX 200
WENDELL ID 83355-0200

Re: Transfer No: 82862
Water Right No(s): 36-2373

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,



Corey Skinner
Southern Regional Manager

Enclosure

c:

METROPOLITAN LIFE INSURANCE COMPANY
AGRICULTURAL INVESTMENTS
10801 MASTIN BLVD STE 930
OVERLAND PARK KS 66210

NATHAN ERICKSON
WATER DISTRICT 130
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858

CERTIFICATE OF SERVICE

I hereby certify that on January 4, 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.: 82862
Water Right No(s): 36-2373

SOUTH VIEW DAIRY LLC
PO BOX 200
WENDELL ID 83355-0200

METROPOLITAN LIFE INSURANCE COMPANY
AGRICULTURAL INVESTMENTS
10801 MASTIN BLVD STE 930
OVERLAND PARK KS 66210

NATHAN ERICKSON *via e-mail*
WATER DISTRICT 130
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858



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: December 18, 2018
To: Transfer 82862 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes updating the legal description for the place of use (POU) for irrigation ground water right, 36-2373, which authorizes the irrigation of a total of 356 acres. The recorded location of one 40 acre tract is described as in the SESE1/4 of Twp 08S, Rge 19E, Sec. 36. The historical location where it has been used is located approximately 5.8 miles to the west in the SESE1/4 of Twp 08S, Rge 18E, Sec. 36 (See attached map titled "Recorded Place of Use for Water Right 36-2373"). The POU and point of diversion (POD) are located approximately 5.0 to 6.0 miles north and 3.6 to 4.5 miles west of Eden.

Per phone conversations with The North Side Canal Co., with Eric Haggerty (representative for South View Dairy), and per a quitclaim deed provided with an ownership change (profiled in the back file for the water right), there are canal shares used on the properties associated with this water right. Eric Haggerty indicated the canal shares are comingled with ground water in an irrigation pond and then diverted into the irrigation system. This is supported by the low diversion volumes reported in the WMIS records as well. Based on this information, I have added condition 943 to the water right indicating that the ground water right is considered supplemental to the canal shares utilized on the property.

The POD and POU are located in Water District 130 and the Eastern Snake Plain Aquifer. No ESPAM modeling is required as there is no hydrologic change. Watermaster comments were solicited and the Watermaster had no objections to the approval of this transfer.

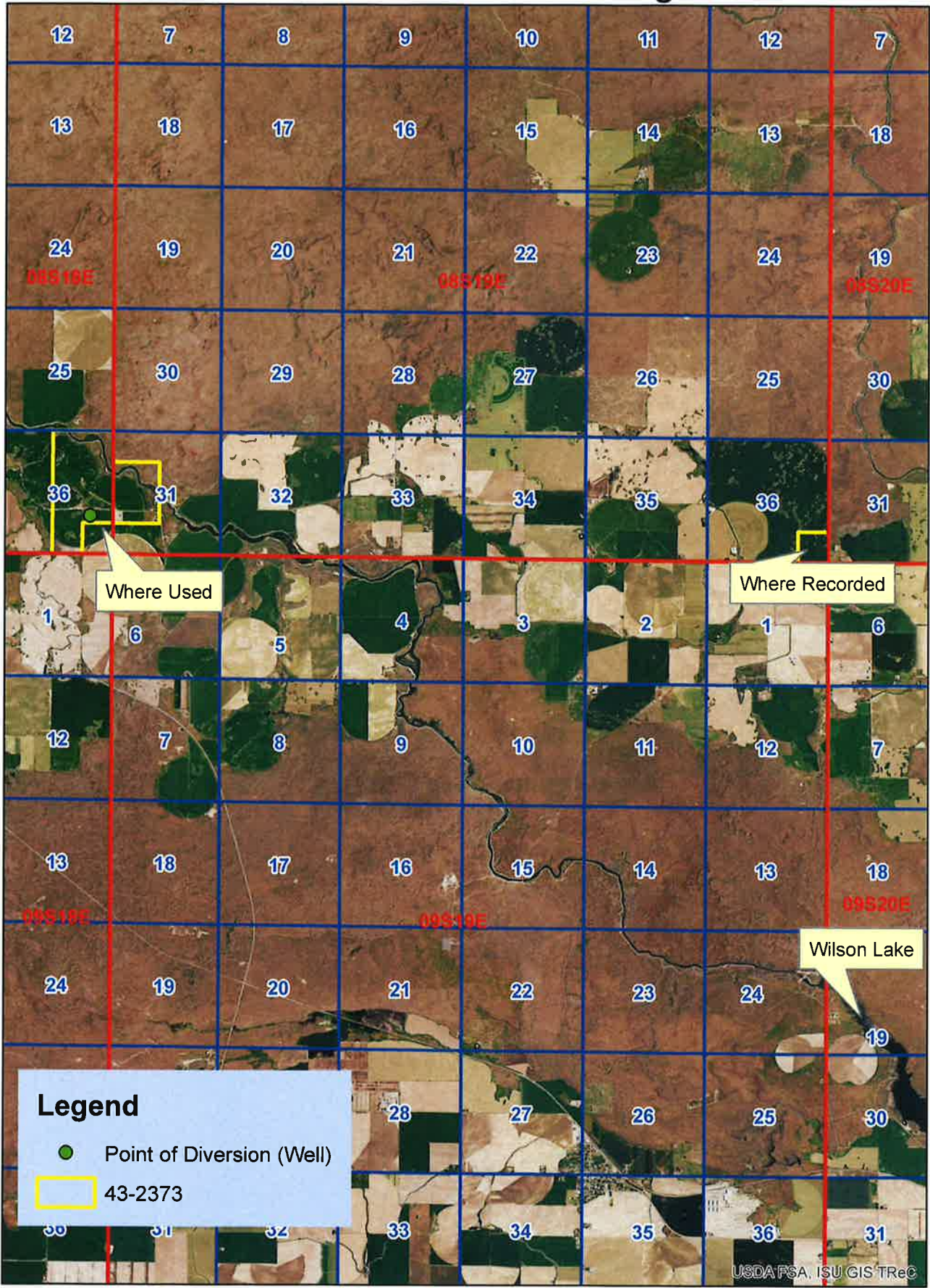
Since the application only seeks to correct the location where the water right has always been diverted and used, and there is no actual hydrologic change, the transfer was processed, and can be approved without advertising.

- **Authority to File:**
IDWR records indicate the applicant currently owns the water right and property this right is historically appurtenant to. The property owner at the location where the 40 acres were recorded has provided a letter indicating he has no interest in this water right.
- **Water Right Validity:** Water right 36-2373 was decreed in the SRBA on 10/19/2007. Recent aerial and satellite imagery indicate that the properties at the historical place of use appear to be irrigated.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.

- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed uses are recognized as beneficial uses of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
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.

Recorded Place of Use for Water Right 36-2373



David C. Barnes
646 Smithwick Road
Twin Falls, Idaho 83301
208-420-7820 cell
davebarnes3@gmail.com

RECEIVED

DEC 17 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION



14 December 14, 2018

Bill Mills
Senior Water Resource Agent
Southern Region
Idaho Department of Water Resources
650 Addison Ave. West
Twin Falls, Idaho 83301-5858

Dear Bill Mills,

It has come to my attention that a well water right has been incorrectly applied to a 40 acre portion on my farm, located in Jerome County (SESE1/4 of Township 08 South, Range 19 East BM).

I have no claim to this well water right. I have no intention to 'prove up' on this well water right.

My farm does not implement deep well water to irrigate.

Sincerely,

David C. Barnes





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 11, 2018

David Barnes
646 Smithwick RD
Twin Falls ID 83301

Re: Application for Transfer No. 82862 for Water Right 36-2373

Dear Mr. Barnes:

An application for transfer has recently been filed with the Idaho Department of Water Resources (Department) seeking to modify an irrigation right, 36-2373, that is currently owned by South View Dairy LLC. It appears there is an inconsistency between the recorded location of a portion of the water right and the physical location where the water right has been historically used. The transfer application is seeking to change the inconsistency by changing the location of that portion of the water right to the location where it has been historically utilized. That portion is currently described as located in the SESE1/4 of Township 08 South, Range 19 East, Section 36, B.M. which according to taxlot information available to the Department, is owned by you. The transfer application is seeking to move that portion approximately 5.8 miles to the west of your property to the SESE1/4 of Township 08 South, Range 18 East, Section 36, B.M. adjacent to the other lands and the point of diversion where this water is currently utilized.

This letter serves to notify you of the transfer applicant's intent to change the location of the discussed portion of the water right to correct the discrepancy between the recorded location and the historical place of use of the water right. If you have questions or concerns regarding this transfer application, call me, email me (william.mills@idwr.idaho.gov) or respond by mail. If no response is received within 14 days of the date of this letter, it will be assumed you have no concerns regarding the processing of the transfer application No. 82862.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Bill Mills'.

Bill Mills
Senior Water Resource Agent
Southern Region
Idaho Department of Water Resources

MEMORANDUM

Date: December 11, 2018
To: Transfer 82862
From: William Mills
Re: Legal Notice Not Required

This application only modifies the place of use and there is no actual hydrologic change. Therefore, pursuant to Section 42-222, Idaho Code, this transfer can be processed and approved without advertising.

Legal Notice Not Required
12/11/2018

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

MEMORANDUM

Date: December 11, 2018
To: Transfer 82862
From: Bill Mills
Re: Fee Evaluation

Filing fees charged for transfer application #82862 were calculated at \$50.00, pursuant to Idaho Code § 42.221.0.8 as this transfer only changes the legal description for the place of use to the location where the right has been historically used (receipt #S037065).

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Transfer No: 82862
Water Right No: 36-2373
Applicant Name: South View Dairy LLC

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

Dated: December 11, 2018

Water District 130



Nathan Erickson, Watermaster



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 11, 2018

WATER DISTRICT #130 *via hand delivery*
NATHAN ERICKSON
650 ADDISON AVE W, STE 500
TWIN FALLS, ID 83301

RE: Transfer No. 82862
Water Right No(s). 36-2373

Dear Nathan:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 14 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 14 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 11, 2018

METROPOLITAN LIFE INSURANCE COMPANY
AGRICULTURAL INVESTMENTS
10801 MASTIN BLVD STE 930
OVERLAND PARK KS 66210

RE: Transfer No. 82862
Water Right No(s). 36-2373

Dear Security Interest Holder:

Attached is a copy of an Application for Transfer that may be of interest to you, as a Security Interest holder. This application is currently being processed by the Department, and is nearing the final approval stage. *Please note, this application was filed solely to correct the Place of Use described on the official water right record.*

Please review the application, and submit any necessary comments or concerns to this office within 14 days. If the department has not received any response from you within 14 days; we will presume that you do not oppose approval of the application and that you have no comments or concerns for the department to consider.

Please contact this office if you have any questions regarding the application.

Sincerely,


Denise Maline
Administrative Assistant

Enclosure(s)

Transfer Application 82862

Mills, William <William.Mills@idwr.idaho.gov>

Mon 12/3/2018, 2:11 PM

To: southviewdairy@live.com <southviewdairy@live.com>

Cc: eric haggerty <eric.h.sam@gmail.com>

RECEIVED
DEC 07 2018
DEPT OF WATER RESOURCES
SOUTHERN REGION

📎 1 attachments (652 KB)

Transfer Application 82862.pdf;

Please find attached the transfer application to transfer 40 acres to the appropriate location (SESE of Sec 36, Twp 08S, Rge 18E) in order to correct the decree error on Water Right 36-2373. Please print it, have Mr. DeJong sign and date it on page 2, and then return it to our office along with the \$50.00 fee either by mail or in person. If you have any questions feel free to call (208-736-3033) or email me.

Our Mailing address is:

Idaho Department of Water Resources

650 Addison Ave West STE 500

Twin Falls, ID 83301

Attn: Bill Mills

Sincerely,

Bill Mills

Senior Water Resource Agent

Idaho Dept. of Water Resources

Southern Region