

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82162**

This is to certify that: CLARK C ROLAND AND/OR
CYRIL W ROLAND AND/OR
IRENE J ROLAND
4001 LITTLE WILLOW RD
PAYETTE, ID 83661

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>
65-5773	WR/DECREED	4/1/1948	0.460 cfs	N/A	N/A	23.0	LITTLE WILLOW CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-5773	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
65-5773	65-5773	0.460 cfs	N/A	N/A	23.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.460 cfs	N/A	N/A	23.0		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 2nd day of November, 2018.


for _____
Chief, Water Allocation Bureau

WATER RIGHT NO. 65-5773

As Modified by Transfer No. 82162

In accordance with the approval of Transfer No. 82162, Water Right No. 65-5773 is now described as follows:

Right Holder: IRENE J ROLAND AND/OR
CLARK C ROLAND AND/OR
CYRIL W ROLAND
4001 LITTLE WILLOW RD
PAYETTE, ID 83661

Priority Date: 4/1/1948

Source: LITTLE WILLOW CREEK

Tributary: BIG WILLOW CREEK

BENEFICIAL USE

IRRIGATION

From

3/15

to 11/15

To

Diversion Rate

0.460 cfs

0.460 cfs

LOCATION OF POINT(S) OF DIVERSION

LITTLE WILLOW CREEK SWNW

Sec 16 Twp 08N Rge 04W PAYETTE 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	
08N	04W	17			23.0														23.0

POU Total Acres: 23.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. 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.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 82162

WATER RIGHT NO. 65-5773

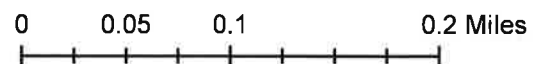
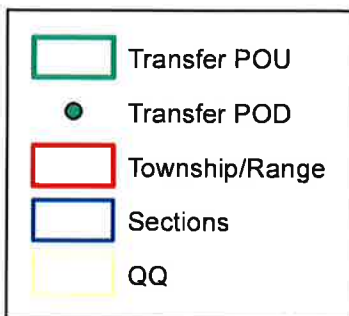
As Modified by Transfer No. 82162

CONDITIONS OF APPROVAL

5. 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.
6. Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.
This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

State of Idaho
Department of Water Resources
Attachment to Transfer No. 82162
Water Right(s): 65-5773

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.



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.

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

State ID Zip 83661 Email

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

☐ 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.

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*.

Page1 of 2

AMENDED

Transfer No. 82162

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:

Existing diversion channel and pump, a meter can be installed in the pump discharge pipe as necessary and the panel can be locked. No change in POU.

- 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. 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.

Clark P. Roland
Signature of applicant or authorized agent

Clark P. Roland 2/7/18
Print name and title if applicable 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 2 pages of attachments.

Received by TK

Date 2/8/2018

Fee paid 500.00

Date 2/8/18

Received by TK

Receipt # C104634

Preliminary review by [Signature]

Date 8/28/18

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)

Roland Application for Transfer to Change POD



Based on 2015 NAIP Photography

Prepared for Rolands by ERO 1-2018

82162

FEB 09 2018

DEPARTMENT OF
WATER RESOURCESSTATE 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)** Clark C and/or Cyril W and/or Irene J Roland Phone 208-642-2078
 2. **MAILING ADDRESS** 4001 Little Willow Road City Payette
 State ID Zip 83661 Email _____

- ☐ 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)** 65-5773

- ☐ 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 0.46 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 #
Yes			SW	NW	16	8N	4W	Payette	Little Willow Creek	

Superseded by Amended Application RCD 8/20/18 JA

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:

Existing diversion channel and pump used for water right 65-2240. A meter can be installed in the pump discharge pipe as necessary and the panel can be locked. No change in POU.

- 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. 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.

Clark P. Roland
Signature of applicant or authorized agent

Clark P. Roland
Print name and title if applicable

2/7/18
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 2 pages of attachments. Received by TR Date 2/8/2018

Fee paid 500.00 Date 2/8/2018 Received by TR Receipt # 2104634

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)

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

Current Water Right No.: 65-5773

Current Owner: IRENE J ROLAND
CLARK C ROLAND
CYRIL W ROLAND

Priority Date: 4/1/1948

Origin: Water Right

Status: Active

Basis: Decreed

Source

LITTLE WILLOW CREEK

Tributary

BIG WILLOW CREEK

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversión Rate

0.46 CFS

Annual Volume

Total Diversión

0.46 CFS

Location of Point(s) of Diversión

LITTLE WILLOW CREEK

NE 1/4NW1/4SE1/4

Sec. 17, Twp 08N, Rge 04W B.M.

PAYETTE County

Place of Use

IRRIGATION Within PAYETTE County

T08N R04W S17

SWNE

23.00

Total Acres: 23

Conditions of Approval:

1. C20 Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977. This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code § 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.
2. C18 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.

Decreed Date: 6/7/2004

Roland Application for Transfer to Change POD



Based on 2015 NAIP Photography

Prepared for Rolands by ERO 1-2018

82162



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 7, 2018

CLARK C ROLAND
IRENE J ROLAND
CYRIL W ROLAND
4001 LITTLE WILLOW RD
PAYETTE ID 83661

Re: Transfer No: 82162
Water Right No(s): 65-5773

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.

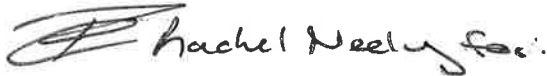
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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) 334-2190.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel Neely".

Nick Miller
Regional Manager

Enclosure

CC:

ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617

DYLAN LAWRENCE
VARIN WARDWELL
242 N 8TH ST STE 220
PO BOX 1676
BOISE ID 83701

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2018 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.: 82162
Water Right No(s): 65-5773**

**CLARK C ROLAND
IRENE J ROLAND
CYRIL W ROLAND
4001 LITTLE WILLOW RD
PAYETTE ID 83661**

**ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617**

**DYLAN LAWRENCE
VARIN WARDWELL
242 N 8TH ST STE 220
PO BOX 1676
BOISE ID 83701**



**Rachel Neely
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. 82162

FROM: Justin Shearer

DATE: 10/19/2018

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to move the POD approximately ½ mile upstream Little Willow Creek.

The site of the proposed POD is located approximately 1 mile east of the Little Willow Rd and Hwy 52 intersection in Fort Wilson, ID.

Summary of Information Submitted

Authority to File: The applicant is the current owner of the water right being transferred. The applicant owns the existing place of use and the proposed point of diversion. No changes to the POU are occurring. Applicant has authority to sign. Thus, there is no evidence to suggest that the applicant does not have the authority to file the transfer proposed.

Water Right Validity:

Department records at the time of this transfer proposal indicate that WR 65-5773 is valid. Satellite imagery shows irrigation on POU over the last 5 years and therefore has not been lost by forfeiture or partial forfeiture.

Overlap Analysis:

There is no overlap at current POD or current POU. There are no proposed changes to the POU so there is no proposed POU overlap. The proposed POD will be moved to an existing diversion channel and pump. In the original application the applicant described the proposed POD as being shared with WR 65-2240. However the amended application removed this remark and WR 65-2240's POD is not being transferred at this time to reflect this change; no proposed POD overlap.

Injury to Other Water Rights:

Reduction in quantity of water available to other water rights is not anticipated as a result of this transfer. The POD is being moved ½ mile upstream Little Willow Creek and the only water rights with POD's between the current POD and the proposed POD, belong to the applicant so additional losses borne by rights remaining in rotation is not likely. Because there are no other owners POD's in between, advertising is not necessary. Because the POD is moving to an already existing diversion channel and pump, unreasonable effort or expense is not of concern to make the proposed change. There is no evidence at the time of this proposal that would suggest that the quality of water available to the holders of existing water rights would be made unusable for the purposes of the existing rights. Mitigation is not needed to prevent injury to an existing water right. GWMA or Critical Ground Water Area concerns are not of relevance to this transfer proposal. There is no proposed change of source. The proposed change to the POD location should not negatively impact conveyance losses associated with

the delivery of other water rights. For these reasons, injury to other water rights is not likely as a result of this transfer.

Enlargement of Use:

The total diversion rate (0.46 cfs), annual diversion volume, and extent of beneficial use shall not be increased as a result of this transfer. Stacked rights issues are not applicable to this proposal. No changes from supplemental right to a primary right are occurring. The historic extent of beneficial use under the right will not be enlarged by this transfer. The period of use for this water right is not changing. For these reasons, enlargement of use is not anticipated as a result of this transfer.

Local Public Interest:

Because the proposed transfer is merely moving the POD upstream ½ mile, the effects to recreation, fish and wildlife, water and hazardous substance standards, local and state requirements, neighboring jurisdictions, and the state water plan are expected to remain the same and thus remains in the local public interest. Ron Shurtleff, Watermaster of Water District 65 did not provide any objection when sought for comment.

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.

Discussion

In the original application the applicant described the proposed POD as being shared with WR 65-2240. However the amended application removed this remark and WR 65-2240's POD is not being transferred at this time to reflect this change; no proposed POD overlap. WR 65-2240 should be transferred in future to reflect its POD's change in location. Because there was no real hydrologic change as a result of the proposed transfer, I found no cause to require public notice. The only real concern for this transfer would have been if there were other WR's POD's in between the current POD for WR 65-5773 and the proposed POD location under this transfer. There were, but they all belong to applicant, so it was considered a non-issue. The right is listed in separate streams provision for Little Willow Creek to be administered separately from other rights within WD 65, therefor I did not add condition R05. Additionally, the right was not required to install and maintain measuring and lockable devices, so condition R43 was not added.

Shearer, Justin

From: Shearer, Justin
Sent: Monday, September 10, 2018 4:03 PM
To: Ron Shurtleff
Subject: Application for Transfer 82162: WR 65-5773
Attachments: Watermaster Recommendation Form_F.PDF; Roland Transfer 82162.pdf

January 11, 2018 EMAIL 9/10/18

RON SHURTLEFF
WATER DISTRICT #65
102 N MAIN
PAYETTE, ID 83661

RE: Applications for Transfer 82162: Water Right 65-5773

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office by **September 24, 2018**.

This transfer did not need advertising, and is otherwise ready for approval.

IDWR will assume you do not object to these applications if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Justin Shearer
Idaho Department of Water Resources
Water Resource Agent
(208) 334-2190
justin.shearer@idwr.idaho.gov

MEMORANDUM

Date: August 28, 2018
To: Transfer 82162
From: Justin Shearer
Re: Legal Notice Not Required

Legal Notice Not Required
2/27/2018

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.

Shearer, Justin

From: Dave Shaw <dshaw@erresources.com>
Sent: Monday, August 20, 2018 10:25 AM
To: Shearer, Justin; Dylan Lawrence
Subject: RE: Roland Transfer POD Verification
Attachments: Rolands Water Rights Transfer App.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Justin,

Will you process the transfer as written in the attached?

David Shaw

ERO Resources Corporation

From: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Sent: Wednesday, August 15, 2018 4:42 PM
To: Dave Shaw <dshaw@erresources.com>; Dylan Lawrence <dylanlawrence@varinwardwell.com>
Subject: RE: Roland Transfer POD Verification

Good afternoon,

After speaking with Mr. Shaw to clarify the details of the situation for the Point of Diversion (POD) in question I now have grasp on the location of the intended shared POD for 65-5773 and 65-2240 and it is clear that the POD for 65-2240 should be added to transfer 82162 as well to reflect its true location.

Though the pumping station/location for 65-2240 has not changed *the physical location of the diverting works* has. Thus, unfortunately it does not qualify for the \$50.00 transfer fee under 42-221.O.8. So, there would be the full transfer fee rate schedule applied to this.

To conclude, transfer 82162 changing the POD to WR 65-5773 should be amended to include the POD for 65-2240 to accurately reflect the changes to both WR's. I have attached a copy of the transfer for your convenience. Please let me know if you have any questions or concerns in regards to this matter.

Thanks and regards,

Justin Shearer
Idaho Department of Water Resources
Water Resource Agent
(208) 334-2190
justin.shearer@idwr.idaho.gov

From: Dave Shaw [<mailto:dshaw@erresources.com>]
Sent: Tuesday, August 14, 2018 10:48 AM
To: Dylan Lawrence <dylanlawrence@varinwardwell.com>; Shearer, Justin <Justin.Shearer@idwr.idaho.gov>
Subject: RE: Roland Transfer POD Verification

Justin,

The dilemma is that the stream has changed over time, originally the POD for 65-2240 was on the main channel of Little Willow Creek and is physically located in the SENE Sec 17 and has not been moved since it was licensed and decreed. The stream course has changed over time and now the channel that delivers water to the pump is not the main stream channel and is maintained by the water user to keep water available to his pump.

When the application for transfer was completed the mouth of the maintained channel was chosen as the point of diversion for 65-5773 because that is where the water user now takes control of the water used for irrigation. I expect there are hundreds of situations like this around the state but I am not sure it rises to the level of needing a transfer for 65-2240, there should have been an explanatory note included in the transfer application explaining why there is a difference in legal descriptions for the same point of diversion used by 2 different water rights. If you would like me to prepare a letter describing the situation to include in the transfer file, I would be happy to do so.

Please let me know if you have questions or need any additional information.

Dave

David Shaw

ERO Resources Corporation

From: Dylan Lawrence <dylanlawrence@varinwardwell.com>

Sent: Tuesday, August 14, 2018 6:56 AM

To: Shearer, Justin <Justin.Shearer@idwr.idaho.gov>

Cc: Dave Shaw <dshaw@eroresources.com>

Subject: Re: Roland Transfer POD Verification

Hi Justin. I've copied Dave Shaw here. Dave prepared the application on behalf of the Rolands and I'm sure can answer your question more efficiently than I can.

Dave, when you have a minute, can you please clarify Justin's question?

Thanks guys,
Dylan

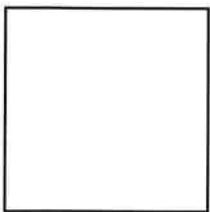
Dylan Lawrence

242 N. 8th Street, Ste. 220

PO Box 1676 | Boise, ID 83701

(208) 907-1529

VarinWardwell.com



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recipients. If you are not the intended recipient of this e-mail, please notify the sender and please do not deliver, distribute, or copy this e-mail, disclose its contents, or take any action in reliance on the information it contains.

On Mon, Aug 13, 2018 at 10:44 AM, Shearer, Justin <Justin.Shearer@idwr.idaho.gov> wrote:

Good morning Dylan,

I was recently assigned the Roland's application for transfer no. 82162. While completing my initial review of the application it became apparent that there is some clarification needed of where the POD should be. The application proposes moving the point of diversion to the SWNW of sec 16 TWP 8N Range 4W and the map submitted with the application backs this up as well.

The statement provided in item 6 of the application describing the diversion system, implies that the new POD for 65-5773 will use the existing POD channel and pump used for water right 65-2240. However, all existing POD's for 65-2240 lie in the SENE of sec 17 just to the west. So I want to verify the intent of this transfer and POD location so that we accurately get this POD transferred for WR 65-5573.

I foresee 1 of 2 possible outcomes in verifying the POD location, 1.) the existing POD structure for 65-2240 referred to in the application is actually in the SWNW sec 16 and should be transferred as well to reflect this, or 2.) the application for transfer should be amended to reflect that the POD for 65-5573 is being moved to existing POD structure that truly does reside in the SENE sec 17. Either way, I am not confident in moving forward with processing this transfer as the application stands.

I have attached a copy of the transfer application for reference. Please advise on how the applicant would like to proceed at your earliest convenience. Feel free to contact me with any questions or concerns in regards to this matter.

Thanks and regards,

Justin Shearer

Idaho Department of Water Resources

Water Resource Agent

(208) 334-2190

justin.shearer@idwr.idaho.gov



DYLAN B. LAWRENCE
DYLANLAWRENCE@VARINWARDWELL.COM

RECEIVED

FEB 08 2018

DEPARTMENT OF
WATER RESOURCES

242 N. 8TH STREET, SUITE 220
P.O. BOX 1676
BOISE, IDAHO 83701
P: 208.907.1529
F: 1.866.717.1758
VARINWARDWELL.COM

RECEIVED

FEB 12 2018

WATER RESOURCES
WESTERN REGION

February 8, 2018

VIA HAND DELIVERY

Idaho Department of Water Resources
State Office
322 East Front St., 6th Floor
Boise, Idaho 83702

Re: Application for Transfer of Water Right No. 65-5773 (Roland)

Dear Sir or Madam:

I have enclosed with this letter the following documents:

- A signed, original Application for Transfer of the above-referenced water right;
- A map depicting the location of the proposed new point of diversion; and
- A check made payable in the amount of \$500.00 to cover the processing fee.

Please process this application at your earliest convenience. If you need anything else from the applicant, please do not hesitate to contact me.

Thank you for your attention to this matter.

Sincerely,

VARIN WARDWELL, LLC

Dylan B. Lawrence

Enclosures