

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82714

This is to certify that: BRINEGAR INVESTMENTS LLLP
1925 N LOCUST GROVE RD
MERIDIAN, ID 83646-1829

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>
36-7113	WR/DECREED	1/30/1970	3.270 cfs	1256.0 af	N/A	314.0	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>
36-7113	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>
36-7113	36-7113	3.270 cfs	1256.0 af	N/A	314.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.270 cfs	1256.0 af	N/A	314.0		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 25th day of September, 2018.



Southern Region Manager

WATER RIGHT NO. 36-7113**As Modified by Transfer No. 82714**

In accordance with the approval of Transfer No. 82714, Water Right No. 36-7113 is now described as follows:

Right Holder: BRINEGAR INVESTMENTS LLLP
1925 N LOCUST GROVE RD
MERIDIAN, ID 83646-1829

Priority Date: 1/30/1970

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

4/01

to

To

10/31

Diversion Rate

3.270 cfs

3.270 cfs

Diversion Volume

1256.0 af

1256.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

SENE

Sec 31 Twp 08S Rge 22E MINIDOKA 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	22E	31	40.0	40.0	40.0	40.0									40.0	40.0	34.0	40.0	314.0

POU Total Acres: 314.0

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 4.0 afa per acre at the field headgate for irrigation of the place of use.
2. 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.
3. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Prior to the diversion and use of water under Transfer approval 82714, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) 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.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

Transfer No. 82714

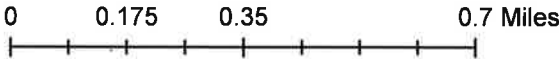
WATER RIGHT NO. 36-7113
As Modified by Transfer No. 82714

CONDITIONS OF APPROVAL

6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the SRBA partial decree date.
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 # 82714
36-7113

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



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:

1 well which was identified in the wrong quarter quarter during the SRBA. Measurement devices installed per water district requirements.

- 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. You may create a map at idwr.idaho.gov, Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.

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.

Clyde E. Bringer Clyde E. Bringer 9/6/2018
Signature of applicant or authorized agent 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 Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by DM Date 9-10-2018

Fee paid \$50- Date 9-10-2018 Received by DM Receipt # 5036947

Preliminary review by AI Date 9/17/18 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)

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

Current Water Right No.: 36-7113

Current Owner: BRINEGAR INVESTMENTS LLLP

Priority Date: 1/30/1970

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	3.27 CFS	1256 AF
	<u>Total Diversion</u>	3.27 CFS	1256 AF

Location of Point(s) of Diversion

GROUND WATER

SE1/4NW1/4SE1/4

Sec. 31, Twp 08S, Rge 22E B.M.

MINIDOKA County

Place of Use

IRRIGATION Within MINIDOKA County

T08S R22E S31	NENE	40.00	T08S R22E S31	NWNE	40.00
T08S R22E S31	SWNE	40.00	T08S R22E S31	SENE	40.00
T08S R22E S31	NESE	40.00	T08S R22E S31	NWSE	40.00
T08S R22E S31	SWSE	34.00	T08S R22E S31	SESE	40.00

Total Acres: 314

Conditions of Approval:

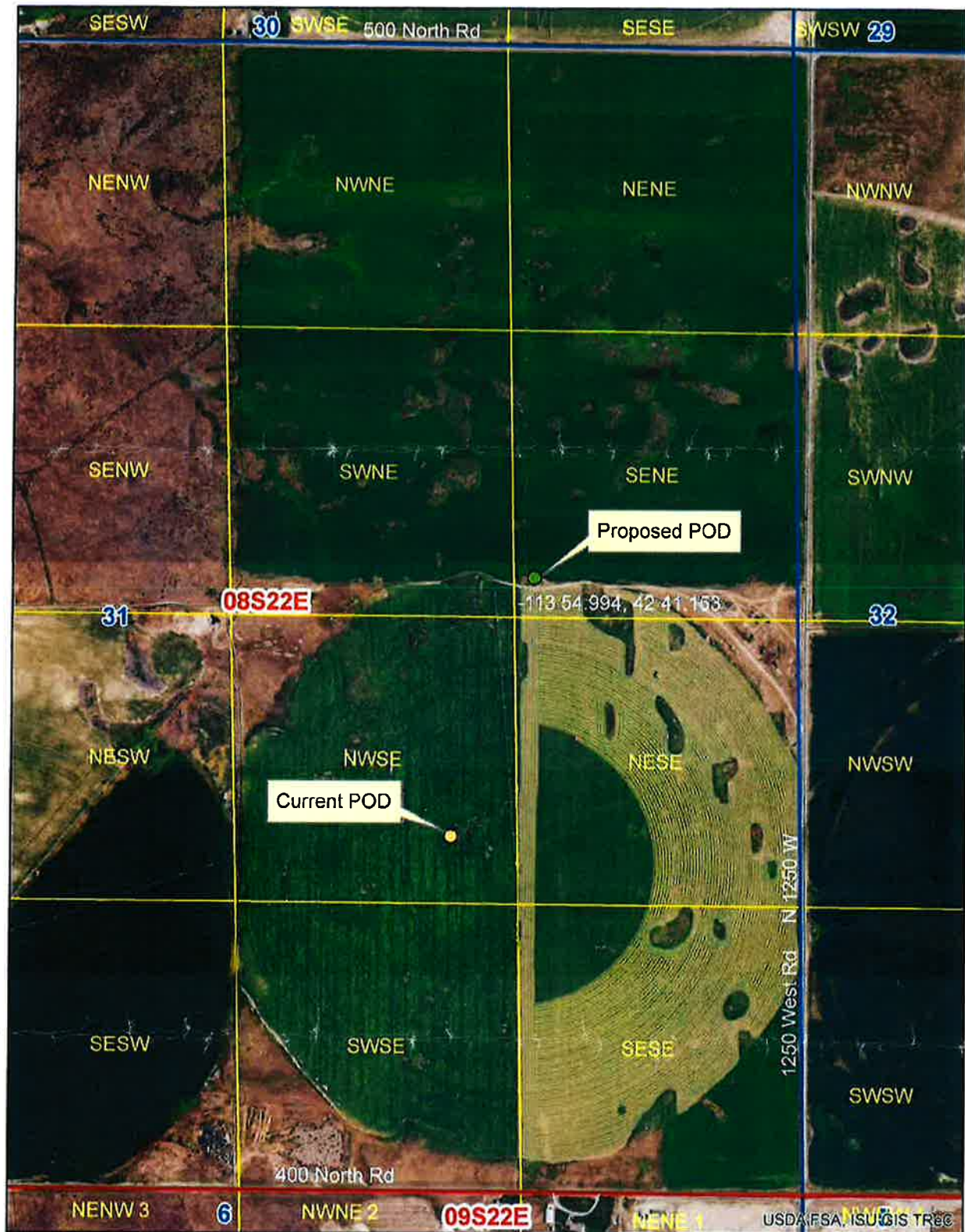
1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
3. M01 A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE MAINTAINED AS A PART OF THE DIVERTING WORKS.

Explanation for transfer filed pursuant to Idaho Code 42-221.O.8

Water right 36-7113 authorizes ground water use from one point of diversion (POD). The original Application for Permit filed in 1970 identified the POD in the **NWSE** of Sec 31, Twp 8S, Rng 22E. When the permit was later licensed in 1976, the well was identified in the **SENE** of Sec 31, Twp 8S, Rng 22E. However, the water right was decreed through the Snake River Basin Adjudication in the **NWSE** quarter quarter. A recent site visit by IDWR staff identified the well in the **SENE** quarter quarter per GPS coordinates (see photo below). This transfer proposes to change the legal description for the point of diversion to the location where the well has always been located; no physical change has occurred or is proposed.

⊗ 233°SW (T) ● 42°41.153'N, 113°54.994'W ±16.4ft ▲ 4325ft





Water Right 36-7113 Application for Transfer

Legend

- Township/Range
- Sections
- QQ



TRANSFER 82714

No. L 5077	Due no later than Sep 30, 2018 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. BRINEGAR INVESTMENTS LLLP PO BOX 7156 BOISE ID 83707-1156		GREGORY A BYRON 3101 W MAIN STE 200 BOISE ID 83702			
			3. <u>New</u> Registered Agent Signature:*			
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
GENERAL PARTNER	SHARON K OSTERMEIER	2044 W. MARACAY DRIVE	MERIDIAN	ID	USA	83646
GENERAL PARTNER	CLYDE E BRINEGAR	1925 N LOCUST GROVE	MERIDIAN	ID	USA	83642
5. Organized Under the Laws of: ID L 5077		6. Annual Report must be signed.* Signature: Gregory A. Byron Name (type or print): Gregory A. Byron Date: 08/16/2018 Title: Registered Agent				
Processed 08/16/2018		* Electronically provided signatures are accepted as original signatures.				

TRANSFER 82714



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

September 28, 2018

BRINEGAR INVESTMENTS LLLP
1925 N LOCUST GROVE RD
MERIDIAN ID 83646-1829

Re: Transfer No: 82714
Water Right No(s): 36-7113

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" written in a larger, more prominent script than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

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

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 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.: 82714
Water Right No(s): 36-7113

BRINEGAR INVESTMENTS LLLP
1925 N LOCUST GROVE RD
MERIDIAN ID 83646-1829

WATER DISTRICT 130 *via e-mail*
NATHAN ERICKSON
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.

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Transfer No: 82714
Water Right No: 36-7113
Applicant Name: BRINEGAR INVESTMENTS LLLP

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: September 20, 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

September 18, 2018

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

RE: Transfer No. 82714
Water Right No(s). 36-7113

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 21 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 unopposed 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 21 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)

MEMORANDUM

Date: September 17, 2018
To: Transfer 82714
From: Allison Inouye
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the point of diversion (POD) for ground water right 36-7113, which authorizes 3.27 cfs for irrigation of 314 acres. The application does not propose a physical change; rather, it seeks to update the recorded location of the POD. It appears there is an inconsistency between the legal description of the POD on the right and the physical location where it has been historically diverted. The original Application for Permit filed in 1970 identified the POD in the NWSE of Section 31, Township 8S, Range 22E, which was then listed on the Permit. The Beneficial Use Field Examination identified it in the SENE of that same Twp/Rng/Sec and an Application for Amendment of Permit was filed to reflect that change. The water right license issued in 1976 reflects the POD in the SENE quarter quarter. However, it appears that the right was later decreed during the SRBA with the POD listed in the NWSE. A recent site visit by IDWR staff conducting flow meter inspections confirmed that the well is physically located in the SENE quarter quarter. The current and proposed points of diversion are located within the ESPA model grid boundary, but a groundwater model analysis was not performed since the current and proposed PODs are located within the same model cell. The water right is located in Water District 130 and watermaster comments will be solicited.

- **Authority to File**
The application is filed in the name of Brinegar Investments LLLP, the owner of the water right being transferred per IDWR records. Information from the IDSOS website indicates that the individual who signed the application can sign on behalf of the organization.
- **Water Right Validity**
Water right 36-7113 was decreed in the SRBA in 1997. Recent aerial imagery indicates that the properties involved with this transfer appear irrigated. WMIS flow meter data from the current point of diversion indicates that the well is actively used.
- **Injury to Other Water Rights**
None anticipated. This transfer does not propose a physical change.
- **Enlargement of Use**
None anticipated. This transfer does not propose a physical change.
- **Local Public Interest**
No issues anticipated. This transfer does not propose a physical change; therefore, advertising was not deemed to be necessary. Watermaster comments will be solicited.
- **Beneficial Use/Conservation of Water Resources**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area**
None anticipated.
- **Effect on the Agricultural Base of the Local Area**
None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

MEMORANDUM

Date: September 17, 2018
To: Transfer 82714
From: Allison Inouye
Re: Legal Notice Not Required

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The change proposed in this transfer application aims to correct the legal description of the point of diversion on the water right record. The proposed modification does not appear to change the effect on the original or any other hydraulically connected water source or to affect other water rights because no physical change is involved. 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: September 17, 2018

To: Transfer 82714

From: Allison Inouye

Re: Filing Fee

This transfer proposes to change only the legal description for the point of diversion to the location where the right has been historically used; no physical change is proposed. Pursuant to Idaho Code § 42-221.O.8, the filing fee for this transfer is \$50. (Receipt No. S036947).