

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82436**

This is to certify that: **BODIE D ISRAEL**
PO BOX 1086
CHALLIS, ID 83226-1086

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>
72-10130A	WR/DECREED	5/1/1879	0.230 cfs	N/A	N/A	13.0	MILL 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>
72-10130A	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>
72-10130A	72-10130A	0.230 cfs	N/A	N/A	13.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.230 cfs	N/A	N/A	13.0		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 7th day of September, 2018.



Southern Region Manager

WATER RIGHT NO. 72-10130A
As Modified by Transfer No. 82436

In accordance with the approval of Transfer No. 82436, Water Right No. 72-10130A is now described as follows:

Right Holder: BODIE D ISRAEL
 PO BOX 1086
 CHALLIS, ID 83226-1086

Priority Date: 5/1/1879

Source: MILL CREEK

Tributary: CHALLIS CREEK

BENEFICIAL USE
 IRRIGATION

From 4/01 **To** 10/31

Diversion Rate
 0.230 cfs
 0.230 cfs

LOCATION OF POINT(S) OF DIVERSION

MILL CREEK NESW Sec 28 Twp 14N Rge 18E CUSTER 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	
14N	18E	28									13.0								13.0

POU Total Acres: 13.0

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. 72A.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Transfer No. 82436

WATER RIGHT NO. 72-10130A
As Modified by Transfer No. 82436

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Section 42-1412(6), Idaho Code, 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 # 82436
72-10130A

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.

18E



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

0 0.035 0.07 0.14 Miles





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 10, 2018

BODIE D ISRAEL
PO BOX 1086
CHALLIS ID 83226-1086

Re: Transfer No: 82436
Water Right No(s): 72-10130A

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 a small "C" above the "S".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910

WATER DISTRICT 170
CINDY YENTER
102 S WARPATH
SALMON ID 83467-4435

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 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.: 82436
Water Right No(s): 72-10130A

BODIE D ISRAEL
PO BOX 1086
CHALLIS ID 83226-1086

WATER DISTRICT 72A
DAVID PHILPS
PO BOX 910
CHALLIS ID 83226-0910

WATER DISTRICT 170 *via e-mail*
CINDY YENTER
102 S WARPATH
SALMON ID 83467-4435



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

Sept. 6
Date: ~~July 27~~, 2018
To: Transfer 82436, Bodie D. Israel File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the point of diversion (POD) for irrigation water right 72-10130A (0.23 cfs) which is currently diverted from Mill Creek at a point approximately 6.5 miles west and 0.3 mile north of the intersection of Main Street and Highway 93 in Challis. The new POD will be located approximately 0.20 mile downstream on Mill Creek at a point on the applicant's property.

Because the transfer involves changing the POD for a surface water right, the transfer was advertised. No protests were received. Comments were solicited from the Watermasters of WD-170 and WD-72A. No objections were noted.

- **Authority to File:**
The application was signed by the applicant, Bodie D. Israel. He is the owner of the water right involved.
- **Water Right Validity:**
Right 72-10130A was decreed in December of 2000. Deeds were provided by the applicant in February of 2018 for a change of ownership on the water right to support property and water right ownership by the applicant.
- **Injury to Other Water Rights:**
None anticipated or foreseen. There are no Mill Creek diversions between the present and the proposed PODs.
- **Enlargement of Use:**
None anticipated. Irrigated acreage is not increasing.
- **Local Public Interest:**
No issues anticipated. The transfer was advertised and was not protested.
- **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 of the Agricultural Base of the 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.

Maline, Denise

From: Richards, Jeff <jeff.richards@idfg.idaho.gov>
Sent: Tuesday, September 04, 2018 9:06 AM
To: Bitzenburg, James
Cc: Yenter, Cindy; Hersley, Jean; Maline, Denise
Subject: RE: Bodie Israel transfer #82436

Jim:

The rock dam is what IDFG has questions about, any obstruction to fish passage is not a beneficial.

Sincerely,

Jeff Richards

From: Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>
Sent: Tuesday, September 4, 2018 8:34 AM
To: Richards, Jeff <jeff.richards@idfg.idaho.gov>
Cc: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>; Hersley, Jean <Jean.Hersley@idwr.idaho.gov>; Maline, Denise <Denise.Maline@idwr.idaho.gov>
Subject: Bodie Israel transfer #82436

Jeff-

Regarding the Bodie Israel water right transfer #82436, which proposes changing Mr. Israel's point of diversion on Mill Creek west of Challis from US Forest Service property to his own, I believe the diversion system description you were quoting was from the Adjudication Claim file. The diversion system description contained in transfer #82436 reads "Install a screened head gate/intake pipe to meet fish specs that will feed into a main underground pipeline to be used for gravity sprinklers and feeding pumping stations, etc. Measuring could be obtained by a meter in mainline or rated flow of 6 inch pipe. A lockable gate valve on pipeline or head gate are both options for security." Mr. Israel has been very proactive in regards to fish protection issues pertaining to his proposed transfer.

We appreciate your input and will take your comments into consideration in the processing of the transfer application.

Jim

Jim Bitzenburg
Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov

Maline, Denise

From: Hersley, Jean
Sent: Tuesday, September 04, 2018 7:42 AM
To: Maline, Denise; Bitzenburg, James
Subject: FW: Bodie D. Israel Transfer No. 82436

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*

From: Richards, Jeff [mailto:jeff.richards@idfg.idaho.gov]
Sent: Friday, August 31, 2018 12:10 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: Bodie D. Israel Transfer No. 82436

Jean:

IDFG does not wish to protest Bodie D. Israel Transfer No. 82436 but are concern with the language under the description of the proposed diversion system. It states that a “**rock dam** with gravity flow pipe and sprinkler system” will be installed. IDFG request that condition number 029 be applied to this Transfer to insure proper screen criteria and fish passage are met. If this condition could be applied to the Transfer, it would elevate our concerns and prevent us from filing a protest.

Sincerely,

Jeff Richards

Jeff Richards
Idaho Department of Fish and Game
Environmental Staff Biologist, Salmon Region
99 Highway 93 N.
Salmon, ID 83467
208-756-2271
Cell 724-422-3273



AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, James M. Smirch, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated August 16th 2018 and ending with the issue dated August 23rd 2018

James M. Smirch

STATE OF IDAHO

COUNTY OF CUSTER

On this 23rd day of August in the year of 2018, before me, a Notary Public, personally appeared James Smirch, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that (s)he executed the same.

Veronica M. Weisbeck
Notary Public of Idaho
Residing at Challis, Idaho
My commission expires 1/9/21

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
TRANSFER NO. 82436

BODIE D ISRAEL, 30365 SODAVILLE MTN HOME RD, LEBANON, OR 97355-9373; has filed Application No. 82436 for changes to the following water rights within CUSTER County(s): Right No(s). 72-10130A; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above

rights as follows: Application for transfer proposes to change the point of diversion (POD) for irrigation water right 72-10130A (0.23 cfs) which is currently diverted from Mill Creek at a point approximately 6.5 miles west and 0.3 mile north of the intersection of Main Street and Highway 93 in Challis. The new POD will be located approximately 0.20 mile downstream on Mill Creek at a point on the applicants property.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 ADDISON AVE W STE 500, TWIN FALLS ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **September 4, 2018**. The protestant must also send a copy of the protest to the applicant.

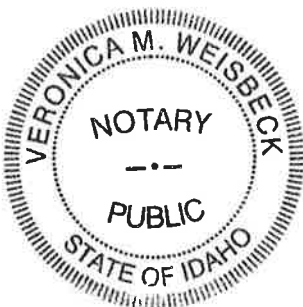
GARY SPACKMAN, Director
Published: August 16 and 23, 2018 (109598)

RECEIVED

AUG 31 2018

DEPT. OF WATER RESOURCES
SOUTHERN REGION

✓ OK DM 9-4-2018



Maline, Denise

From: Yenter, Cindy
Sent: Tuesday, August 21, 2018 5:03 PM
To: Maline, Denise
Subject: Watermaster Comment - Transfer 82436 (Bodie Israel)

WD170 has no objections to approval of this application, with the following conditions:

01H, 215, 198

Even though the flow rate is less than 0.24 cfs, the authorized irrigated area is greater than 5 acres and measurement is required.

WD Flag = 72A

*Cindy Yenter
Watermaster, Water District 170
IDWR Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*

From: Maline, Denise
Sent: Friday, August 10, 2018 10:33 AM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Subject: Comment Letter - Transfer 82436 (Bodie Israel)

Hi Cindy,

Attached is an application for transfer currently being processed within your District. Please review the information and provide any necessary comments. *This application is being advertised on August 16 & 23, with a protest deadline of Tuesday Sept. 4, 2018.*

Comments have also been solicited from WD72A.

Thank you,

Denise

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**CHANGE IN ADDRESS**

This form can be used to notify the Department of a change in
address of the owners of record for the listed water rights.
(Please print or type)

RECEIVED

AUG 20 2018

DEPT OF WATER RESOURCES
SOUTHERN REGIONWater Right Number(s): 72-10130AName(s): Bodie IsraelOld Mailing Address: 30315 Sodaville mtn home Rd
Lebanon OR 97355New Mailing Address: PO Box 1086
Challis Id 83226Telephone Number: 541-409-2112Email: Bodie.israel@aol.comSignature(s) of Owner(s) [Signature]

(Include your title if on behalf of company or organization.)

Date: 8/15/18

Send a signed original to your closest regional office:

IDWR Northern Region
7600 N. Mineral Dr., Suite 100
Coeur d'Alene, ID 83815-7763
(208) 762-2800

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

IDWR Southern Region
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858
(208) 736-3033

SCANNED
AUG 20 2018