

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT  
TRANSFER NO. 82209

This is to certify that: DALE HOOLEY  
DIANA HOOLEY  
26796 INDIAN COVE LN  
HAMMETT, ID 83627-5016

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> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 2-7039             | WR/DECREED          | 6/10/1969            | 11.700 cfs            | 3140.0 af               | N/A               | 628.0              | SNAKE RIVER   |

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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 2-7039                | YES          | NO         | YES        | YES            | NO                   | NO                   |

Summary Of Water Rights After the Approved Change

| <u>Existing Right</u>  | <u>New No. (Changed Portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 2-7039                 | 2-10566                          | 2.630 cfs            | 705.0 af               | N/A               | 141.0              | 2-7039                             | 9.070 cfs             | 2435.0 af               | 487.0                       | 640.0                        |
| <b>COMBINED TOTALS</b> |                                  | <b>11.700 cfs</b>    | <b>3140.0 af</b>       | <b>N/A</b>        | <b>628.0</b>       |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

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 22<sup>nd</sup> day of August, 2018.

  
\_\_\_\_\_  
Chief, Water Allocation Bureau

SUPPORT DATA

Transfer No. 82209

IN FILE # 2-7039

**WATER RIGHT NO. 2-7039**  
**As Modified by Transfer No. 82209**

In accordance with the approval of Transfer No. 82209, Water Right No. 2-7039 is now described as follows:

**Right Holder:** DIANA HOOLEY  
DALE HOOLEY  
26796 INDIAN COVE LN  
HAMMETT, ID 83627-5016

**Priority Date:** 6/10/1969

**Source:** SNAKE RIVER

**Tributary:** COLUMBIA RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| IRRIGATION            | 03/15       | to 11/15  | 9.070 cfs             | 2435.0 af               |
|                       |             |           | 9.070 cfs             | 2435.0 af               |

**LOCATION OF POINT(S) OF DIVERSION**

SNAKE RIVER                      SWNW                      Sec 34 Twp 05S Rge 07E OWYHEE 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   |        |
| 05S | 07E | 32  |    |    | 40.0 | 40.0 |    |    |      |      | 40.0 |      |      | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 320.0  |
| 05S | 07E | 33  |    |    | 40.0 |      |    |    | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 | 40.0 |      | 40.0 |      |      | 320.0  |

Right Acre Limit: 487.0

POU Total Acres: 640.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 487 acres within the authorized place of use in a single irrigation season.
2. 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.
3. 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. 02.
4. 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).
5. This right does not grant any right-of-way or easement across the land of another.

Transfer No. 82209

**WATER RIGHT NO. 2-7039**  
**As Modified by Transfer No. 82209**

**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.

**WATER RIGHT NO. 2-10566**  
**As Modified by Transfer No. 82209**

In accordance with the approval of Transfer No. 82209, Water Right No. 2-10566 is now described as follows:

**Right Holder:** DIANA HOOLEY  
DALE HOOLEY  
26796 INDIAN COVE LN  
HAMMETT, ID 83627-5016

**Priority Date:** 6/10/1969

**Source:** SNAKE RIVER

**Tributary:** COLUMBIA RIVER

|                              |                    |                  |                              |                                |
|------------------------------|--------------------|------------------|------------------------------|--------------------------------|
| <b><u>BENEFICIAL USE</u></b> | <b><u>From</u></b> | <b><u>To</u></b> | <b><u>Diversion Rate</u></b> | <b><u>Diversion Volume</u></b> |
| IRRIGATION                   | 03/15              | to 11/15         | 2.630 cfs                    | 705.0 af                       |
|                              |                    |                  | 2.630 cfs                    | 705.0 af                       |

**LOCATION OF POINT(S) OF DIVERSION**

SNAKE RIVER                      SWNW                      Sec 2   Twp 06S Rge 06E   OWYHEE 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 |        |
| 06S | 06E | 11  |    |    |    |    | 34.0 | 33.0 | 36.0 | 38.0 |    |    |    |    |    |    |    |    | 141.0  |

POU Total Acres:                      141.0

**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. 02.
3. 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).
4. This right does not grant any right-of-way or easement across the land of another.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No.    82209

**WATER RIGHT NO. 2-10566**  
**As Modified by Transfer No. 82209**

**CONDITIONS OF APPROVAL**

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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 Water Right Transfer 82209

2-7039

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.



0 0.25 0.5 1 Miles

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

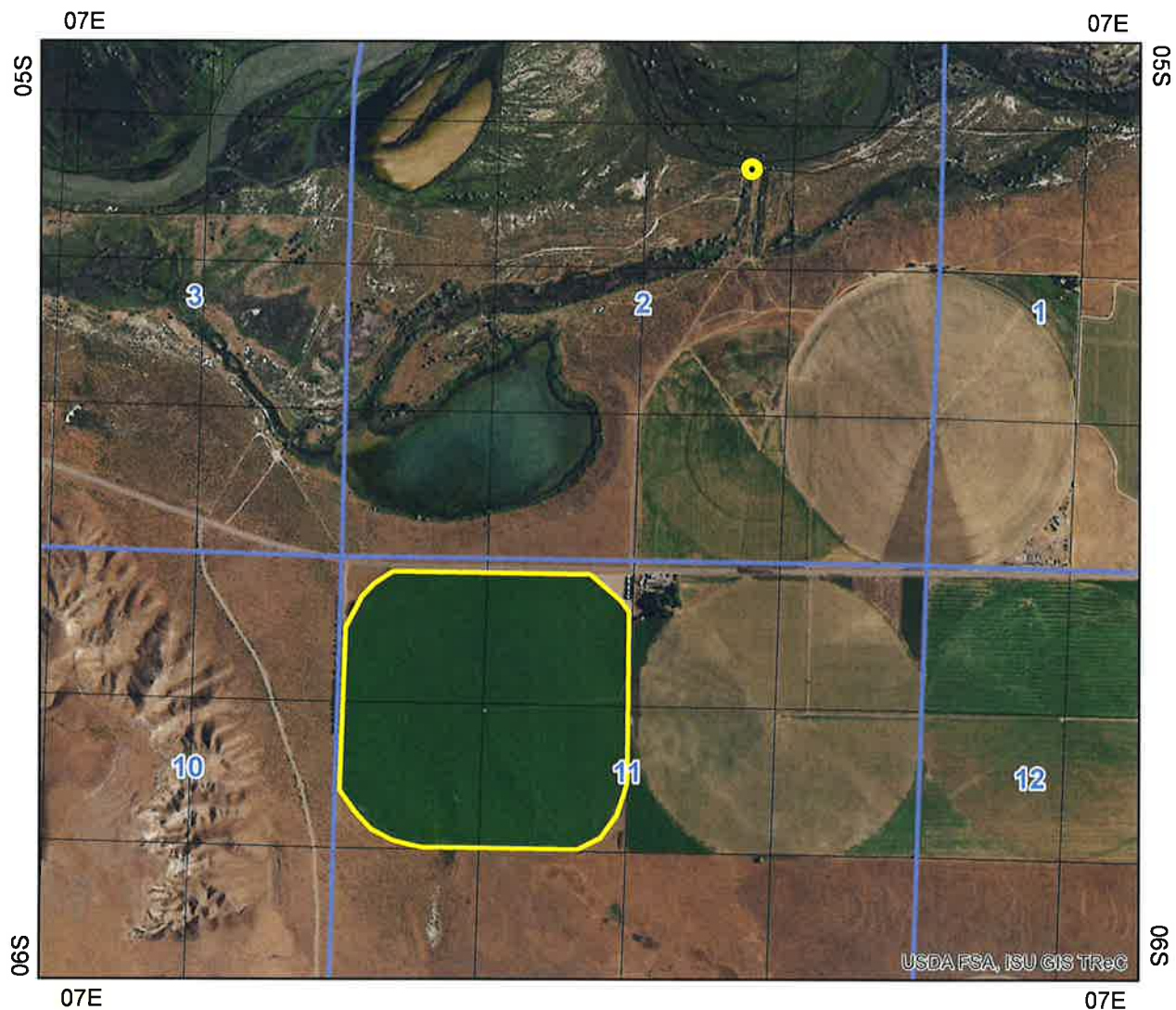


State of Idaho  
Department of Water Resources

# Attachment to Water Right Transfer 82209

2-10566

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.



0 0.2 0.4 0.8 Miles

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





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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

August 22, 2018

DIANA HOOLEY  
DALE HOOLEY  
26796 INDIAN COVE LN  
HAMMETT ID 83627-5016

Re: Transfer No: 82209  
Water Right No(s): 2-7039

### **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 black ink, appearing to read "Nick Miller", written in a cursive style.

Nick Miller  
Regional Manager

Enclosure

UNITED STATES OF AMERICA ACTING THROUGH  
USDI BUREAU OF LAND MANAGEMENT  
ATTN FRED PRICE  
1387 S VINNELL WAY  
BOISE ID 83709-1657

## **CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 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.: 82209**  
**Water Right No(s): 2-7039**

**DIANA HOOLEY**  
**DALE HOOLEY**  
**26796 INDIAN COVE LN**  
**HAMMETT ID 83627-5016**

**UNITED STATES OF AMERICA ACTING THROUGH**  
**USDI BUREAU OF LAND MANAGEMENT**  
**ATTN FRED PRICE**  
**1387 S VINNELL WAY**  
**BOISE ID 83709-1657**



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**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. 82209  
FROM: Patrick Kelly  
DATE: 7/26/2018  
RE: Evaluation of Application

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### Summary of Information Submitted

Dale and Diana Hooley filed transfer no. 82209 to split 141 acres from water right 2-7039 to a new pivot location. This proposed 141 acre pivot system is currently irrigated under a water supply bank rental. The transferred acres would reduce the existing acres within Sections 32 and 33 farm and no longer require the need for a supply bank rental.

The proposed split portion of the right is located 3 miles SW of the current POU under 2-7309. The new point of diversion on the Snake River is approximately 4.5 miles downstream of the original POD.

Both the original and proposed POD's are within the trust water boundary and Water District 02. Comment letters were sought from the watermaster as well as BLM and Idaho Power.

Lori Graves of SPF Water Engineering is the representative for the transfer. A cover letter was submitted from Mr. Hooley, but a telephone conversation with Mrs. Graves on 3/15/18 confirms that SPF Water Engineering is representing the applicant. Lori Graves can be reached at 208-383-4140 or lgraves@spfwater.com.

The transfer was protested by BLM since the Twn 5 South Range 7 East Sec 33 NESE QQ is BLM ground. A settlement agreement was reached by removing this land from the proposed PPU. The applicant agreed to cease the application of water to, and agricultural use of land owned by BLM.

Since the 141 acre split is being assigned to a pivot system not connected to the original right, 2-7039 will be split with the 141 acres now under child right 2-10566. The original right authorized 11.7 cfs, 3,140 af on 628 acres. To maintain the original cfs and af per acre (0.0186 & 5.0) 2.63 cfs, 705 af and 141 acres will be split to right 2-10566.

### Authority to File

The application was filed in the name of Dale and Diana Hooley. The Hooley's are both the current water right owner and property owner of all grounds pertinent to the transfer.

The application for transfer states that the new point of diversion is owned by Idaho Power. A Special Use permit was issued to Mr. Hooley in 2007 at this point described by the transfer.

### Water Right Validity

2-7309 was decreed in 2009. 2015 aerial imagery shows that irrigation use of at least 628 acres have occurred at the place of sue. Concerns over validity are not present at this time.

### Overlap Analysis

2-7309 is the only water right pertinent to the Hooley property. Currently there are no water rights at the proposed location. All of the irrigation use at the proposed site is covered under a water supply bank rental. No other rights should be considered for this transfer.

### Injury to Other Water Rights

None anticipated. Irrigation use at the proposed place of use has been occurring under a water supply bank rental since 2011. Injury in the form of a complaint has not been issued to the department since this time.

### Enlargement of Use

The split portion of the transfer will reduce the diversion and authorized acres under 2-7039 by the equal amount proposed. The new point of diversion is downstream of the original POD and not considered an improvement to the source.

### Local Public Interest

No information has been made available to suggest a conflict with public interest.

**Beneficial Use/Conservation of Water Resources**

The application proposes beneficial use consistent with conservation of water resources in Idaho.

**The application is consistent with criteria of I. C. § 42-222 and should be processed.**

**Summary**

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.



April 18, 2018

RECEIVED  
JUN 20 2018  
WATER RESOURCES  
WESTERN REGION

Angie Grimm  
IDWR Western Region Office  
2735 Airport Way  
Boise, ID 83705

**Subject: Amended Application for Transfer No. 892209**

Dear Angie,

Enclosed in response to BLM's protest, is an *Amended Application for Transfer* that removes the NESE 40-acre tract in Section 33 owned by BLM from the proposed permissible place of use (ppu) listed on page 3 of the transfer application. Map 7B1 filed with the original transfer correctly reflects the intended ppu and therefore does not need amended.

Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lori Graves", is written over a light blue horizontal line.

Lori Graves  
Water Rights Specialist

Cc: Dale Hooley  
Fred Price, BLM

Enclosures

SPF file number: 1222.0010