

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 82253**

This is to certify that: **LONE PINE FARMS CANYON COUNTY LLC**  
5592 W KUNA RD  
KUNA, ID 83634-1544

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>    |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|------------------|
| 65-4983            | WR/DECREED          | 5/24/1900            | 2.080 cfs             | 4.0 af                  | N/A               | 84.0               | BIG 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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 65-4983               | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 65-4983                | 65-4983                          | 2.080 cfs            | 4.0 af                 | N/A               | 84.0               | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>2.080 cfs</b>     | <b>4.0 af</b>          | <b>N/A</b>        | <b>84.0</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 27<sup>th</sup> day of JULY, 2018.

  
Water Rights Supervisor

**WATER RIGHT NO. 65-4983****As Modified by Transfer No. 82253**

In accordance with the approval of Transfer No. 82253, Water Right No. 65-4983 is now described as follows:

**Right Holder:** LONE PINE FARMS CANYON COUNTY LLC  
5592 W KUNA RD  
KUNA, ID 83634-1544

**Priority Date:** 5/24/1900

**Source:** BIG WILLOW CREEK

**Tributary:** PAYETTE RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| IRRIGATION            | 3/15        | to 11/15  | 2.080 cfs             | 4.0 af                  |
| STOCKWATER            | 1/01        | to 12/31  | 0.050 cfs             | 4.0 af                  |
|                       |             |           | 2.080 cfs             | 4.0 af                  |

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

BIG WILLOW CREEK      NWSE      Sec 24 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 | 03W | 19  |    |    | 3.4 |      | 2.1 |    | 6.0 | 14.0 | 19.0 |    |    |    |      |     |    |    | 44.5   |
|     |     |     |    |    |     |      |     |    | L 2 |      |      |    |    |    |      |     |    |    |        |
| 08N | 04W | 24  |    |    | 0.2 | 12.0 |     |    |     |      |      |    |    |    | 21.0 | 6.3 |    |    | 39.5   |

POU Total Acres: 84.0

**PLACE OF USE: STOCKWATER**

| 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 | 03W | 19  |    |    | X  |    | X  |    | X   | X  | X  |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    | L 2 |    |    |    |    |    |    |    |    |    | 0      |
| 08N | 04W | 24  |    |    | X  | X  |    |    |     |    |    |    |    |    | X  | X  |    |    |        |

**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 quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

Transfer No. 82253

**WATER RIGHT NO. 65-4983**  
**As Modified by Transfer No. 82253**

**CONDITIONS OF APPROVAL**

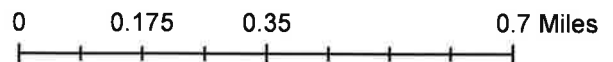
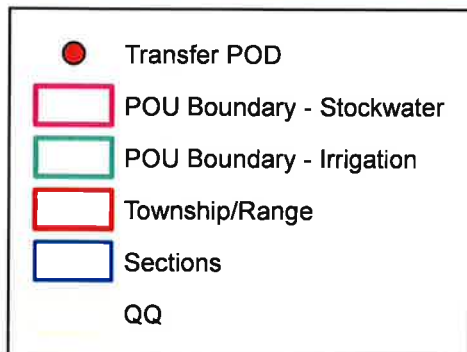
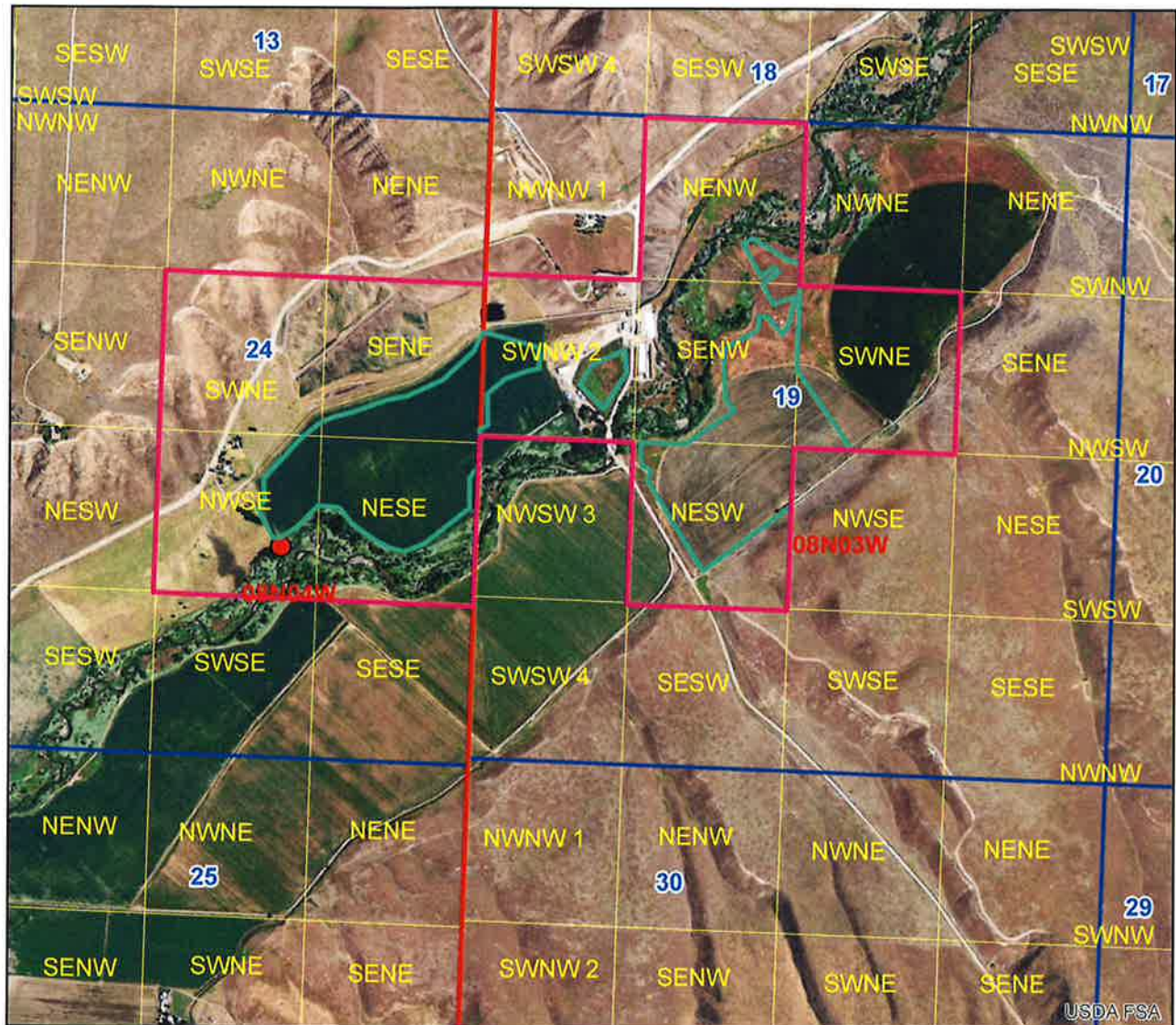
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 65.
5. The right holder shall maintain a measuring device 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).
6. 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.
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. 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.
10. 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 No. 82253

Water Right(s): 65-4983

This map depicts the place of use boundaries for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.





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

July 27, 2018

LONE PINE FARMS CANYON COUNTY LLC  
5592 W KUNA RD  
KUNA ID 83634-1544

Re: Transfer No: 82253  
Water Right No(s): 65-4983

### **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 "Rachel Neely" followed by a stylized flourish or "LLC".

Nick Miller  
Regional Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706

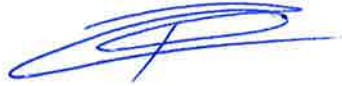
## **CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 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.: 82253  
Water Right No(s): 65-4983**

**LONE PINE FARMS CANYON COUNTY LLC  
5592 W KUNA RD  
KUNA ID 83634-1544**

**SPF WATER ENGINEERING LLC  
C/O LORI GRAVES  
300 E MALLARD DR STE 350  
BOISE ID 83706**



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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. 82253

FROM: Phill Hummer

DATE: 07/23/218

RE: Evaluation of Application

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The transfer application proposes to change the point of diversion for water right no. 65-4983. The change would allow the diversion of Big Willow Creek water from an existing pump about 1 mile downstream from the currently authorized point of diversion. Contact person for the applicant is Lori Graves with SPF.

### Summary of Information Submitted

#### **Authority to File:**

Applicant is the current owner of water right no. 65-4983. The Idaho Secretary of State site shows the Stephen Boschma is an authorized agent of the company and does have the authority to sign the application.

#### **Water Right Validity:**

Water right no. 65-4983 is presumed to be valid because beneficial use of water for irrigation has been made within the last five years. Beneficial use confirmed by department aerial imagery and Landsat images (specifically 08/19/2017).

The transfer application form indicates stockwater use has not undergone a period of five or more consecutive years of non-use. The department doesn't not have any information contrary, the use of stockwater under this right is valid.

#### **Injury to Other Water Rights:**

The transfer proposes to move the point of diversion downstream along the same source. There should be no reduction to the source in excess of what has been occurring. The POD for water right no. 65-5566 is between the current diversion location for right no. 65-4983 and the proposed point of diversion. Water right no. 65-5566 is a junior right and could potentially have more water in the stream available. If the point of diversion for right no. 65-4983 is moved downstream and is not satisfied (not enough water), then the right owner could potentially make a water call to have the junior users curtailed. However, this water call would be considered a futile call because the diversion of a typical domestic water right is not significant enough to affect the availability of water to downstream users. Watermasters typically do not regulate domestic water rights.

The site is not within any management areas and the watermaster did not express concerns regarding the proposed change.

#### **Enlargement of Use:**

The applicant also submitted application for permit no. 65-23756 to be diverted from the point of diversion proposed in this transfer. The purpose of the application is to provide additional volume for the same acres irrigated under right no. 65-4983. That application if approved would be

limited to the same rate and acres as this right. Changing the point of diversion (without changing anything else) should not create an enlargement of use.

**Local Public Interest:**

The proposed POD is an existing diversion so impacts to the creek associated with construction of pump station are not an issue. There were no comments received from comment letters sent to irrigation companies, district 65 watermaster, and recent protestants in the area.

For these reasons this application proposes a change consistent with the local 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**

Data entry affected the correct record, water right no. 65-4983 and rightID 424992.

**Water Right Overlap**

The transfer proposes to change the point of diversion to one used to divert water under rights no. 65-23759, 65-4486A, 65-4486B, 65-4488 and new application 65-23756.

The place of use for 65-4983 is not going to change through this transfer but it is a direct acre for acre overlap of new application 65-23756. Additionally, right no. 65-4982 overlaps the right in the NESE of section 24, township 08N, range 04W. The two rights combine in this QQ to more than 40 acres. Right no. 65-4982 does not need to be included in this transfer.

**Discussion**

If approved the following changes should be made to the conditions of water right no. 65-4983:

- Update condition C18 to T19.
- Add standard transfer conditions T07 and T08
- Update the all capitol letter conditions to lower case
- Update the text condition to R65
- Remove the number of cattle text condition.
- Add Water District conditions R43 and R05.
- Add season of use condition X61, "date of this approval" to be when transfer 82253 is approved because that is when the condition is added.

Protests were not filed and other information does not contradict the above analysis. This application can be approved as reflected by the draft approval.

RECEIVED

JUL 02 2018

WATER RESOURCES  
WESTERN REGION

The following applications have been filed to appropriate the public waters of the State of Idaho:

65-23754

LONE PINE FARMS CANYON COUNTY LLC  
5592 W KUNA RD  
KUNA, ID 83634-1544

Points of Diversion L1(NWNW) L4(SWSW)  
SESW S19 T08N R03W PAYETTE County  
Source GROUND WATER

Points of Diversion NWNE SWNE SENE  
NENW L1(NWNW) S30 T08N R03W  
PAYETTE County Source GROUND WATER  
Point of Diversion NENE S25 T08N R04W  
PAYETTE County Source GROUND WATER  
Use: COMMERCIAL 01/01 to 12/31 1.12  
CFS

Use: STOCKWATER 01/01 to 12/31 1.12  
CFS

Total Diversion: 1.12 CFS

Date Filed: 2/20/2018

Places of Use: COMMERCIAL, STOCKWA-  
TER

T08N R03W S19 NESW L4(SWSW) SESW  
SWSE

T08N R04W S25 NENE

T08N R03W S30 NE(ALL) NENW L1(NWNW)

65-23755

LONE PINE FARMS CANYON COUNTY LLC  
C/O STEPHEN BOSCHMA  
5592 W KUNA RD  
KUNA, ID 83634

Point of Diversion L1(NWNW) S19 T08N  
R03W PAYETTE County Source GROUND  
WATER

Use: IRRIGATION 03/01 to 11/15 0.4 CFS

Total Diversion: 0.4 CFS

Date Filed: 3/14/2018

Place of Use: IRRIGATION

T08N R03W S19 L1(NWNW) L2(SWNW)

Total Acres: 20

65-23756

LONE PINE FARMS CANYON COUNTY LLC  
C/O STEPHEN BOSCHMA  
5592 W KUNA RD  
KUNA, ID 83634

Point of Diversion NWSE S24 T08N R04W  
PAYETTE County Source BIG WILLOW  
CREEK Tributary PAYETTE RIVER

Use: IRRIGATION 03/01 to 11/15 2.08 CFS

Total Diversion: 2.08 CFS

Date Filed: 3/14/2018

Place of Use: IRRIGATION

T08N R03W S19 SWNE NENW L2(SWNW)  
SESW NESW

T08N R04W S24 SWNE SENE NESE NWSE

Total Acres: 84

TINA MARIE MARSING  
Notary Public  
State of Idaho

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }

County of Payette }

Dawnita Haueter

Of Payette, Payette County, Idaho, being

First duly sworn, deposes and says:

- 1) That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not party to the above entitled action.
- 2) That I am the representative of the Independent Enterprise, a weekly newspaper published in the County of Payette and State of Idaho; that the said newspaper is in general circulation in the said County of Payette, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
- 3) That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:

June 20, 2018 & June 27, 2018

Legal # 98212

App Permits

Department of Water Resources

2735 Airport Way

Boise ID, 83705

*Dawnita Haueter*

State of Idaho }

County of Payette }

On this 27th day of June in the year 2018

Before me a Notary Public, personally appeared.

Dawnita Haueter, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

*[Signature]*  
Notary Public for Idaho

Residing at Payette County

My Commission expires

7/24/23

**NOTICE OF PROPOSED CHANGE OF  
WATER RIGHT**

**TRANSFER NO. 82253**

**LONE PINE FARMS CANYON COUNTY  
LLC, 5592 W KUNA RD, KUNA, ID 83634-  
1544; has filed Application No. 82253** for  
changes to the following water rights within  
PAYETTE County(s): Right No(s). 65-4983.  
The transfer application proposes to change  
the point of diversion for water right no. 65-  
4983. The change would allow the diversion  
of Big Willow Creek water from an existing  
pump about 1 mile downstream from the  
currently authorized point of diversion. The  
new point of diversion would be located ap-  
proximately 9.5 miles southeast of Payette  
Idaho along the Big Willow Creek Road.

Permits will be subject to all prior water  
rights. For additional information concern-  
ing the property location, contact Western  
Region office at 208-334-2190; or for a full  
description of the right(s) or proposed trans-  
fer (s) please see [www.idwr.idaho.gov](http://www.idwr.idaho.gov).  
Protests may be submitted based on the cri-  
teria of Idaho Code §§ 42-203A and 42-222.  
Any protest against the approval of the ap-  
plication(s) must be filed with the Director,  
Dept. of Water Resources, Western Region,  
2735 Airport Way, Boise, ID 83705 together  
with a protest fee of \$25.00 for each appli-  
cation on or before 7/9/2018. The protes-  
tant must also send a copy of the protest to  
the applicant.

GARY SPACKMAN, Director

Published on 6/20/2018 and 6/27/2018

**Legal Number 98212 June 20, 27, 2018**

VOK RD 714118