

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82210**

This is to certify that: **THOMAS H CARSON**
1004 7TH ST S
NAMPA, ID 83651-4124

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>
63-2732	WR/DECREED	1/1/1949	0.860 cfs	193.5 af	N/A	43.0	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>
63-2732	NO	NO	YES	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>
63-2732	63-2732	0.860 cfs	193.5 af	N/A	43.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.860 cfs	193.5 af	N/A	43.0		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 24th day of JULY, 2018.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-2732**As Modified by Transfer No. 82210**

In accordance with the approval of Transfer No. 82210, Water Right No. 63-2732 is now described as follows:

Right Holder: THOMAS H CARSON
1004 7TH ST S
NAMPA, ID 83651-4124

Priority Date: 1/1/1949

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.860 cfs

0.860 cfs

Diversion Volume

193.5 af

193.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

NESW

Sec 17 Twp 02N Rge 02W CANYON County

GROUND WATER

NWSW

Sec 17 Twp 02N Rge 02W CANYON 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	
02N	02W	17									18.0	18.0	1.0	6.0					43.0

POU Total Acres: 43.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. Use of this right is combined with water from Nampa Meridian Irrigation District.
3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Section 42-222, Idaho Code, or other Department approval.

WATER RIGHT NO. 63-2732
As Modified by Transfer No. 82210

CONDITIONS OF APPROVAL

4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this 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 Transfer No. 82210

Water Rights: 63-2732

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

□ Township/Range

□ Sections

□ QQ



0 0.1 0.2 Miles



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 24, 2018

THOMAS H CARSON
1004 7TH ST S
NAMPA ID 83651-4124

Re: Transfer No: 82210
Water Right No(s): 63-2732

Transfer Approval Notice

Dear Water Right Holder:

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

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

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

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

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

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel Neely for". The signature is written in dark ink and is positioned to the right of a stylized, horizontal flourish.

Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 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.: 82210
Water Right No(s): 63-2732

THOMAS H CARSON
1004 7TH ST S
NAMPA ID 83651-4124



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. 82210 File
FROM: Cody Parker
RE: Evaluation of the sufficiency of information submitted
DATE: May 17, 2018

The purpose of this transfer is to change the place of use for seven irrigated acres of water right 63-2732. Five acres in the SESW will be irrigated by piping water from the well in the NESW across a waste ditch to be gravity fed through furrows running north-south. Water will be used south of Lakeshore Drive between Dearborne Road and Lynwood Drive, approximately three miles southwest of Nampa, Idaho.

Summary of Information Submitted

Authority to File: An ownership change was submitted with this application and was processed prior to transfer processing. The new owner of record is Thomas H Carson. Current tax parcel information shows that the current owner of the irrigated land and the points of diversion is the same Thomas H Carson. The applicant has authority to file this application.

Water Right Validity: This right authorizes irrigation of 43 acres from two separate wells. The right was decreed in February of 2009. Of the 43 acres it appears that a maximum of 38 acres within the place of use have been irrigated directly from the wells during the previous consecutive 5-year period, though the waste water has been captured and re-applied to lands to the south in combination with surface water from the Nampa Meridian Irrigation District.

The five acres of this water right that have not been irrigated are at risk of a finding of forfeiture. However, according to the warranty deed shown in the backfile the current owner purchased the property in December of 2017. The 2018 irrigation season will be the first that Mr. Carson has owned the property. The non-use of part of this water right has resulted from circumstances over which the water right owner has had no control, which is an acceptable defense to forfeiture according to 42-223(6) *Idaho Code*. Further, the fact that some of the wastewater was recaptured and used on the land to the south raises more uncertainty on whether the acres under the right were actually forfeited. Therefore, the right is presumed to be valid.

Injury to Other Water Rights: None anticipated. No changes to the points of diversion are proposed, so no injury is expected. It is possible the change in place of use could result in a greater dependence on the well located in the NESW. There is one domestic well located nearby in the NWSE of the same section. A comment letter will be sent to the owners of that well at advertising.

The place of use is located south of Lake Lowell, near an area within which The Boise Project has concerns regarding injury to the Lake Lowell water rights. Historically, the Boise Project has been concerned with new appropriations, rather than transfers of existing water rights. However, they will have an opportunity to protest this proposed change at advertising if they see fit.

Enlargement of Use: None anticipated. The transfer does not propose any change to the diversion rate, annual volume, or season of use. Approval of the transfer will acknowledge more irrigation than was historically done within the previous 5-year period. However, the owner has a valid defense to forfeiture and the full irrigation use is presumed valid, so there is no enlargement.

The new acres to be irrigated in the SESW will get water from the well in the NESW. Water will be piped across the waste ditch to be gravity fed through furrows running north-south. Irrigation in this manner should prevent water from being applied to a larger area in the SESW, so no enlargement is anticipated.

The backfile indicates that groundwater has been used in combination with water from the Nampa Meridian Irrigation District to irrigate the place of use. The owner says that the new acres have also been irrigated with surface water. Supplemental use conditions will be added to the right if the transfer is approved to ensure that no enlargement occurs and that surface water will continue to be used.

Local Public Interest: The application proposes a change consistent with the local public interest. The application will be advertised to allow the opportunity for public protest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with the conservation of water resources in Idaho.

Discussion

Overlap: Surface water from the Nampa Meridian Irrigation District is also used to irrigate the place of use. Right no. 63-2733 authorizes diversion from a separate well, and some of the irrigated acres may overlap, though the backfile is ambiguous in that regard. Combined use limits will be added to an approval of this transfer to ensure that irrigation does not exceed 0.02 cfs per acre nor 4.5 afa/acre.

RECEIVED
APR 30 2018
WATER RESOURCES
WESTERN REGION

29512 1752098

1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

)SS.

County of Canyon)

Sharon Jessen
of Nampa, Canyon 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 a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, 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:
04/19/2018 04/26/2018

STATE OF IDAHO)

County of Canyon)

On this 26th day of April in the year of
2018 before me a Notary Public, personally appeared.
Sharon Jessen, 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.

Notary Public for Idaho

Residing at Canyon County

My Commission expires 06/28/2023

LEGAL NOTICE

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

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82210

THOMAS H CARSON, 1004 7TH ST S, NAMPA, ID 83651-4124; has filed Application No. 82210 for changes to the following water rights within CANYON County(s): Right No(s). 63-2732. The purpose of this transfer is to change the place of use for 7 irrigated acres of water right 63-2732. 5 acres in the SESW will be irrigated by piping water from the well in the NESW across a waste ditch to be gravity fed through furrows running north-south. Water will be used south of Lakeshore Drive between Dearborne Road and Lynwood Drive, approximately 3 miles southwest of Nampa, Idaho.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82211

THOMAS H CARSON, 1004 7TH ST S, NAMPA, ID 83651-4124; has filed Application No. 82211 for changes to the following water rights within CANYON County(s): Right No(s). 63-2733C. The purpose of this transfer is to change the point of diversion to a well located 500 ft southeast of the original in the NESW of Section 17, Township 02 North, Range 02 West, Boise Meridian. According to the applicant, the proposed point of diversion has been used for this right since 1977. Water will continue to be used at the current place of use located east of the intersection of Lakeshore Drive and Dearborne Road, approximately 3 miles southwest of Nampa, Idaho.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s) or proposed transfer(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(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 application on or before 5/7/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

April 19, 26, 2018

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