

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81935

This is to certify that: JARROD TORKELSON AND
KRISTINA TORKELSON
1988 N CAIRNS WAY
MERIDIAN, ID 83646

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>
65-10439	WR/DECREED	6/1/1967	0.040 cfs	1.2 af	N/A	N/A	UNNAMED STREAM

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>
65-10439	NO	YES	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>
65-10439	65-10439	0.040 cfs	1.2 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 cfs	1.2 af	N/A	N/A		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 27th day of June, 2018.



Chief, Water Allocation Bureau

WATER RIGHT NO. 65-10439
As Modified by Transfer No. 81935

In accordance with the approval of Transfer No. 81935, Water Right No. 65-10439 is now described as follows:

Right Holder: JARROD TORKELSON AND
 KRISTINA TORKELSON
 1988 N CAIRNS WAY
 MERIDIAN, ID 83646

Priority Date: 6/1/1967

Source: UNNAMED STREAM **Tributary:** NORTH FORK PAYETTE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	1/01	to 12/31	0.040 cfs	1.2 af
			0.040 cfs	1.2 af

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM NWSE Sec 3 Twp 13N Rge 03E VALLEY County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	03E	3														X			

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
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. 65.
3. Point of diversion is located within the east part of Lot 13 , Blk. 1, Gratton Barnard Subdivision No. 2.
4. Place of use is located within the east part of Lot 13 , Blk. 1, Gratton Barnard Subdivision No. 2.
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.

Transfer No. 81935

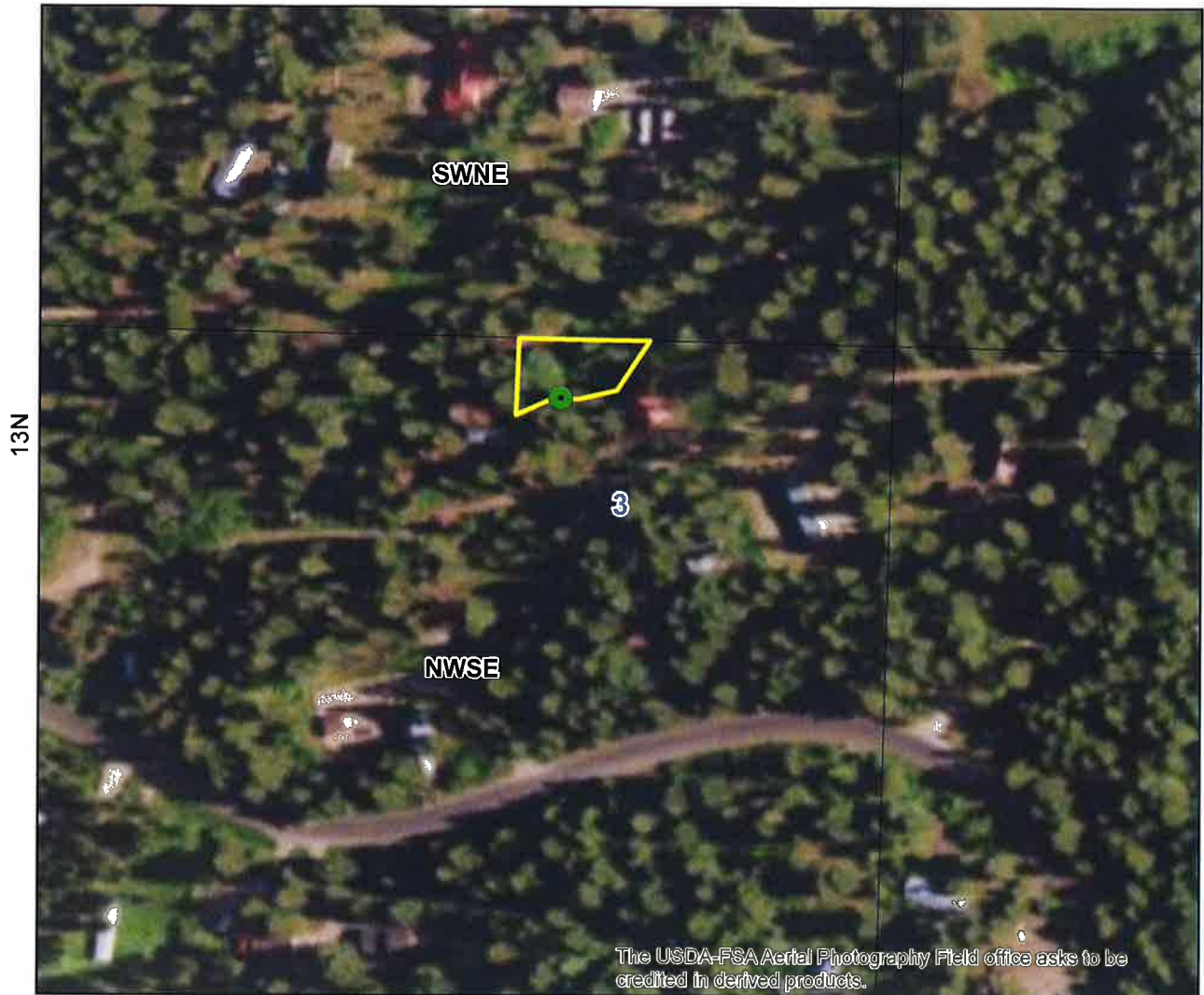
State of Idaho
Department of Water Resources

Attachment to Transfer No. 81935

Water Right: 65-10439

This map depicts the DOMESTIC 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.

03E



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

0 0.0225 0.045 0.09 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. "BLITCH" OTTER
Governor

GARY SPACEMAN
Director

June 7, 2018

JARROD TORKELSON
KRISTINA TORKELSON
1988 N CAIRNS WAY
MERIDIAN ID 83646

Re: Transfer No: 81935
Water Right No(s): 65-10439

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

Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 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.: 81935
Water Right No(s): 65-10439**

**JARROD TORKELSON
KRISTINA TORKELSON
1988 N CAIRNS WAY
MERIDIAN ID 83646**

**RON SHURTLEFF
WATERMASTER OF DISTRICT 65
102 N MAIN
PAYETTE ID 83661**



**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. 81935
FROM: Rachel Sommer
DATE: April 17, 2018
RE: Evaluation of Transfer Application

Summary of Application Proposal

The following proposals are to be met following a transfer approval in the name of Jarrod and Kristina Torkelson. The purpose of this transfer is to correct the legal description for the point of diversion (POD) and place of use (POU) described on Water Right 65-10439 to define the NWSE of Sec 3, T13N, R3E, instead of the NWNE.

The description of rights after the requested changes includes a source of Willow Creek tributary to the Payette River. The right was decreed with a source of Unnamed Stream tributary to the North Fork Payette River. The source is most commonly known as Richards Creek or Rock Creek. I have found no evidence of the source being identified or described as Willow Creek. Because documentation was not submitted to support a source correction, the transfer will process with a source of Unnamed Stream.

Location of Application Proposal

The proposal is located off W Mountain Rd and Duffys Ln, in the east part of Lot 13 Blk 1 of Gratton Barnard Subdivision No. 2, west of Lake Cascade, and approximately 2.5 miles south-west from the City of Cascade.

Summary of Information Submitted

Authority to File:

Jarrod and Kristine are the applicants and signees for this transfer and is the current owner of record for right 65-10439. A Warranty Deed submitted with an ownership change on September 29, 2017 and the current parcel information support Torkelson as being owners.

Water Right Validity/ Historical Beneficial Use:

65-10439: priority date 6/1/1967, decreed date 10/30/1998.

Right 65-10439 authorizes domestic use not to exceed 13,000 gpd. The transfer application indicated the right has not undergone a period of five or more consecutive years of non-use. I have found no evidence to dispute that the right has beneficially been used, therefore, the right is presumed valid.

Water Supply Bank:

The water right within this transfer is not leased into the Water Supply Bank.

Overlapping POU/POD:

POU overlap: None.

- Water Rights 65-3111A and 65-13088, in the name of Wester Mountain Water Association Inc., together describe domestic uses for 29 homes. Documents in the back-files don't list the applicant's property as being covered under the rights and the applicants described no other rights on their property. Therefore, overlap is not a concern.

POD overlap: None.

Associated Rights:

None.

Injury to Other Water Rights:

There should be no injury to other water rights under this transfer as long as the new right holder abides by the amount of water that is appurtenant to this property.

Enlargement of Use:

No enlargement should occur under the proposed transfer application. The application proposes to correct the POD and POU to identify where the right was diverted from and appropriated to historically. No new domestic water is sought under this proposal.

Local Public Interest:

It is within the local public interest to allow property owners to develop their property as long as the application is processed without issues.

Beneficial Use/Conservation of Water Resources:

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

Legal Notice:

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Review of the water right source history has been contentious in the past, therefore, public notice is required.

Summary of Application Approval / Denial

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

A protest was filed and then withdrawn. Other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.