

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81671**

This is to certify that: CITY OF WEISER
55 W IDAHO ST
WEISER, ID 83672

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>
67-10975	WR/DECREED	10/12/1887	0.240 cfs	N/A	N/A	N/A	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>
67-10975	NO	YES	NO	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>
67-10975	67-10975	0.240 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.240 cfs	N/A	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 7th day of June, 2018.



Chief, Water Allocation Bureau

WATER RIGHT NO. 67-10975

As Modified by Transfer No. 81671

In accordance with the approval of Transfer No. 81671, Water Right No. 67-10975 is now described as follows:

Right Holder: CITY OF WEISER
55 W IDAHO ST
WEISER, ID 83672

Priority Date: 10/12/1887

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
DOMESTIC	01/01	to 12/31	0.240 cfs
FIRE PROTECTION	01/01	to 12/31	0.240 cfs
			0.240 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNE	Sec 17 Twp 10N Rge 05W WASHINGTON County
GROUND WATER	SEnw	Sec 29 Twp 11N Rge 05W WASHINGTON County
GROUND WATER	SESwnw	Sec 29 Twp 11N Rge 05W WASHINGTON County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Weiser municipal water supply system as provided for under Idaho Law.
2. A map generally depicting the place of use for this water right at the time of this approval is attached to this document for illustrative purposes.
3. The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.
4. The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.
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.

WATER RIGHT NO. 67-10975
As Modified by Transfer No. 81671

CONDITIONS OF APPROVAL

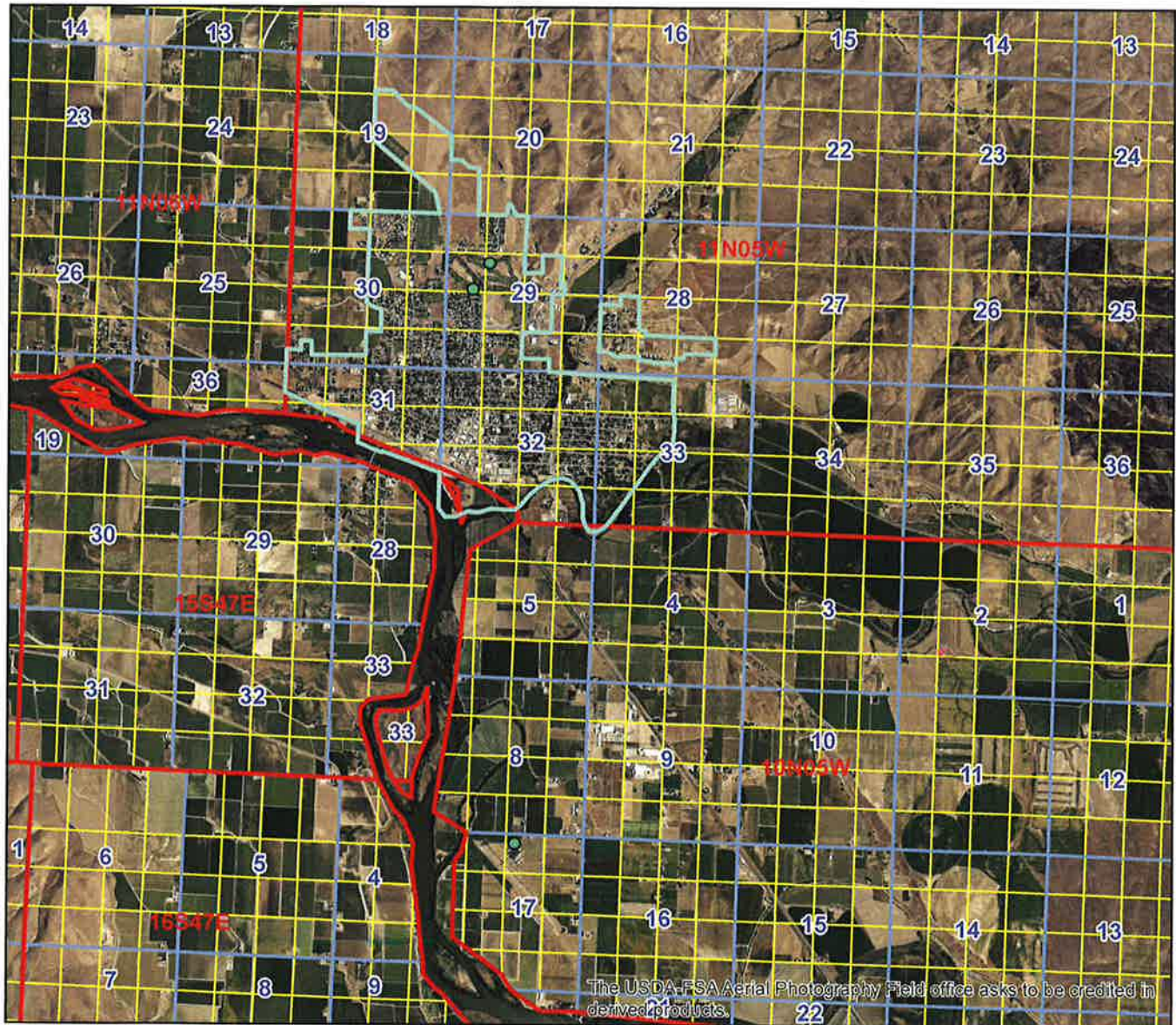
8. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
9. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 81671

Water Right(s): 67-10975

This map depicts the place of use boundary and POD's for the water rights being transferred at the time of this approval and is attached to the approval document solely for illustrative purposes.



- City of Weiser Transfer POD's
- City of Weiser Service Area
- Township/Range
- Sections
- QQ

0 0.5 1 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. "BLITCH" OTTER
Governor

GARY SPACKMAN
Director

June 7, 2018

CITY OF WEISER
55 W IDAHO ST
WEISER ID 83672

Re: Transfer No: 81671
Water Right No(s): 67-10975

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.", is written over a horizontal line.

Nick Miller
Regional Manager

Enclosure

CC:

CANDICE M MC HUGH
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702

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.: 81671
Water Right No(s): 67-10975

CITY OF WEISER
55 W IDAHO ST
WEISER ID 83672

CANDICE M MC HUGH
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702



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. 81671
FROM: Justin Shearer
DATE: 4/10/2018
RE: Evaluation of Application

The purpose of this transfer is to add a point of diversion and change the two existing POD locations to different wells for WR 67-10975.

The site of the new POD is at the pump house of the Weiser City Airport. The site of the two changed POD's are located at the Rolling Hills Golf Course north of Indian Head Rd. at the north end of Weiser.

Contact person for the applicant is Candice McHugh of McHugh Bromley, PLLC Idaho Water Law Attorneys.

Summary of Information Submitted

Authority to File: Application for Transfer was filed by Diana Thomas, City of Weiser Mayor. Current Washington county taxlot data shows that City of Weiser owns the property where the POD's being transferred are located.

Water Right Validity: The partial decree for water right no. 67-10975 was issued on 05/11/2010. Forfeiture is not an issue because an extension to avoid forfeiture was approved granting an extension/resumption of use date of 12/31/2020. The City of Weiser filed for extension in 2015 because the water right's POD was no longer viable and they planned to file a transfer to move this water right to a different point of diversion within the City's system, but in the mean time needed to protect this water right. This transfer will accomplish their plan to move POD's.

Injury to Other Water Rights: Reduction in quantity of source water available is not anticipated as a result of this transfer because groundwater well already exists in the proposed POD location. Unreasonable effort or expense is not anticipated in switching POD's to different wells or correcting the legal description in this case. Mitigation is not required. The proposed POD's are not located in an Groundwater Management Area, Critical Groundwater Area, or any other Area of Concern. There is no change in source nor a change in aquifer source. There are several other wells within a half mile radius, however the rate of water being transferred is minimal. Sufficiency of water supply is assumed. Injury to other water rights is not anticipated.

Enlargement of Use: The authorized diversion rate as decreed for the water right will not be increased. This transfer proposes no changes to nature of use, period of use, or permissible place of use. Stacked water rights are not a concern. Historic beneficial use will be allowed to resume as a result of this transfer. Current measuring requirements for groundwater diversions will be applied to approval. Enlargement of use is not anticipated.

Local Public Interest: There is no information available to suggest that this transfer is inconsistent with local public interest. The application is consistent with the definition of “Local Public Interest” as described in section 42-202B(3). Impacts to the source in relation to recreation and fish/wildlife resources are not anticipated. There are not any water quality issues anticipated as a result of this transfer. No protests were received as a result of advertising. For these reasons, it is expected that this application proposes a change consistent with the local public interest.

Beneficial Use/Conservation of Water Resources: The proposed transfer would change the location of the POD’s and improve the applicant’s capability to make beneficial use of the resource. The water delivery and distribution/application systems for the use proposed by the transfer are consistent with contemporary standards for reasonable efficient use of water. The proposed transfer will help the applicant make beneficial use of the resource because they would be changing POD’s from an unproductive well to a producing one, helping them to satisfy their extension. For these reasons it is determined that this 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

Water Right Overlap

There is POD overlap at the two wells on the golf course: Weiser Well #1 overlaps with water right 67-4291 and Weiser Well #3 overlaps with water right 67-2320.

Discussion

The POU shape for water right no. 67-10975 used for this transfer was obtained from the adjudication recommendation shape for 67-10975. It is likely that this shape is out of date, however it is the most up to date shapefile for the City of Weiser service area available at the time of this transfer.

If approved the following changes should be made to the conditions of water right no. 67-10975

- Add condition 046 because the proposed new POD is a groundwater well
- Update condition C18 to T19.
- Add standard transfer conditions T07 and T08
- Add condition 01M

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

RECEIVED

MAR 05 2018

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
County of Washington)ss.Sarah Boles, being duly sworn,
deposes and says:That she is the Clerk of
THE WEISER SIGNAL AMERICAN, a weekly newspaper
published at Weiser, in the County of Washington and State of
Idaho; that said paper has been and is in general circulation in
the county aforesaid, and in the vicinity of Weiser; that the ad-
vertisement, a copy of which is attached hereto, was published insaid newspaper once a week for two consecutive weeks in
the regular and entire issue of said paper during the period and
time of publication, and was published in the newspaper proper
and not in a supplement; that said paper has been established
and regularly published for more than seventy-eight consecutive
weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

February 21, 2018 and endingwith the issue of February 28, 2018Sarah BolesFees, \$ 89.83Subscribed and sworn to before me this 28date of February 2018Stephanie McDaniel
Notary Public, residing at Weiser, Idaho.My commission expires 09-14-18

No.

The following application has been filed to appropriate the
public waters of the State of Idaho: ✓ OK RN 3/14/18NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81671CITY OF WEISER, 55 W IDAHO ST, WEISER, ID 83672;
has filed Application No. 81671 for changes to the following
water rights within WASHINGTON County(s): Right No(s).
67-10975. The purpose of this transfer is to add a point of
diversion and change the two existing POD locations to dif-
ferent wells for WR 67-10975.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 appli-
cation on or before 3/12/2018. The protestant must also send
a copy of the protest to the applicant.GARY SPACKMAN, Director
Published on 2/22/2018 and 3/1/2018

8-2S

