

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82151

This is to certify that: DARYL HILT AND
ELAINE HILT
2163 S 1700 E
GOODING, ID 83330

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>
37-8055	WR/DECREED	10/28/1982	0.080 cfs	22.9 af	N/A	N/A	GROUND WATER
37-8891	WR/DECREED	3/25/1974	0.300 cfs	67.6 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

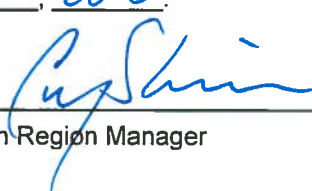
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-8055	NO	NO	NO	YES	NO	NO
37-8891	NO	NO	NO	YES	NO	NO

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>
37-8055	37-8055	0.080 cfs	22.9 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
37-8891	37-8891	0.300 cfs	67.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.380 cfs	90.5 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 1st day of May, 2018.



Southern Region Manager

SUPPORT DATA

IN FILE # 37-8055

Transfer No. 82151

WATER RIGHT NO. 37-8891**As Modified by Transfer No. 82151**

In accordance with the approval of Transfer No. 82151, Water Right No. 37-8891 is now described as follows:

Right Holder: DARYL HILT AND/OR
ELAINE HILT
2163 S 1700 E
GOODING, ID 83330

Priority Date: 3/25/1974

Source: GROUND WATER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	01/01	to 12/31	0.300 cfs	25.6 af
STOCKWATER	01/01	to 12/31	0.300 cfs	42.0 af
			0.300 cfs	67.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County
GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County
GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County

PLACE OF USE: COMMERCIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	14E	23													X			X	

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	14E	23													X			X	

CONDITIONS OF APPROVAL

1. Rights 37-8055 and 37-8891 when combined shall not exceed a total diversion rate of 0.38 cfs and a total annual maximum diversion volume of 90.5 af.
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. 130.
3. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

Transfer No. 82151

WATER RIGHT NO. 37-8891

As Modified by Transfer No. 82151

CONDITIONS OF APPROVAL

4. Prior to the diversion and use of water under Transfer approval 82151, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device. Measuring device(s) shall be installed so that irrigation diversions can be measured independently of stockwater, commercial, and domestic diversions.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
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.

WATER RIGHT NO. 37-8055**As Modified by Transfer No. 82151**

In accordance with the approval of Transfer No. 82151, Water Right No. 37-8055 is now described as follows:

Right Holder: ELAINE HILT AND/OR
DARYL HILT
2163 S 1700 E
GOODING, ID 83330

Priority Date: 10/28/1982

Source: GROUND WATER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	1/01	to 12/31	0.080 cfs	12.1 af
DOMESTIC	1/01	to 12/31	0.080 cfs	3.6 af
STOCKWATER	1/01	to 12/31	0.080 cfs	7.2 af
			0.080 cfs	22.9 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County
GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County
GROUND WATER	NESE	Sec 23 Twp 06S Rge 14E	GOODING County

PLACE OF USE: COMMERCIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	14E	23													X			X	

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	14E	23													X				

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	14E	23													X			X	

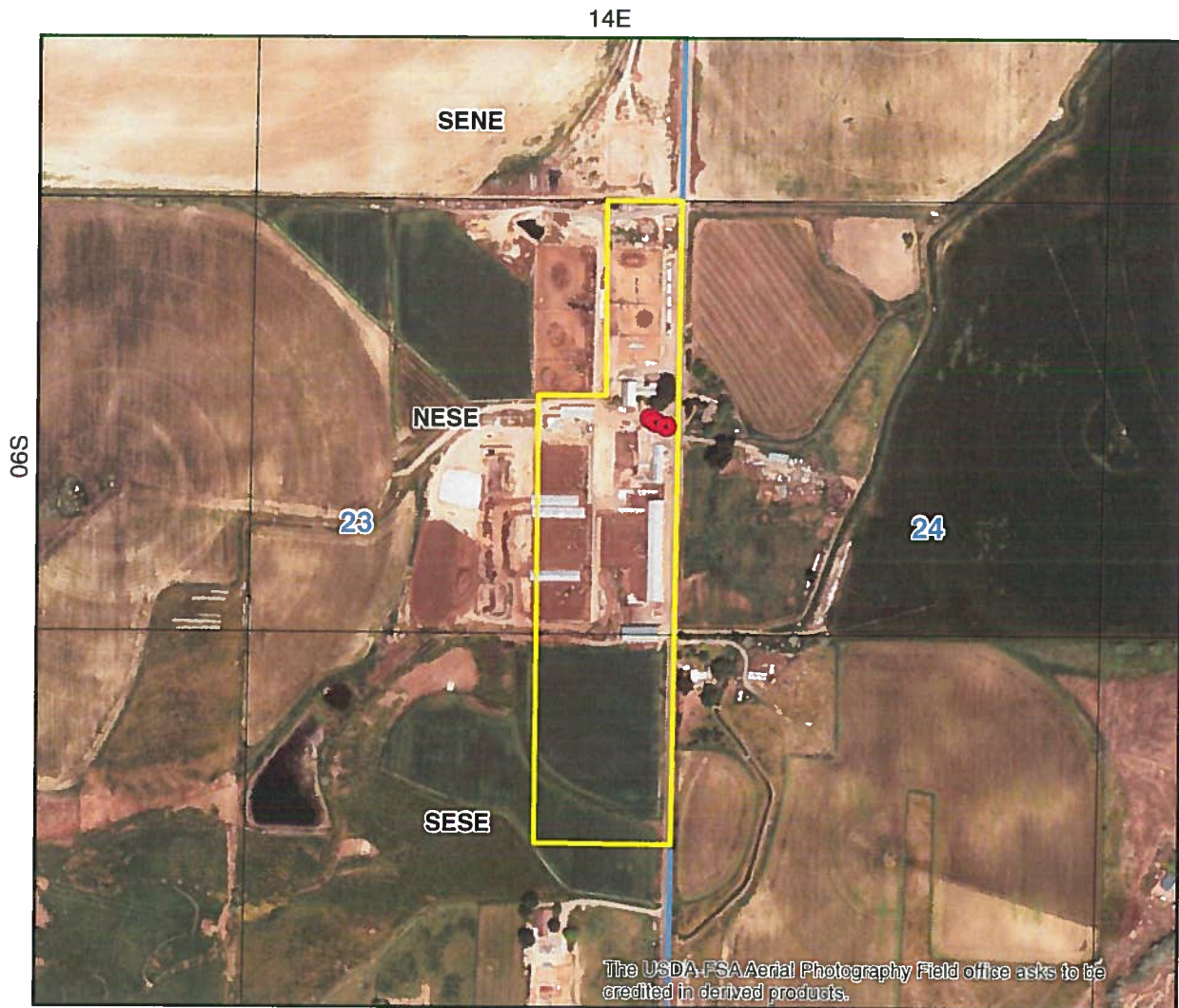
WATER RIGHT NO. 37-8055
As Modified by Transfer No. 82151

CONDITIONS OF APPROVAL

1. Rights 37-8055 and 37-8891 when combined shall not exceed a total diversion rate of 0.38 cfs and a total annual maximum diversion volume of 90.5 af.
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. 130.
3. The right holder shall maintain 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. Prior to the diversion and use of water under Transfer approval 82151, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device. Measuring device(s) shall be installed so that irrigation diversions can be measured independently of stockwater, commercial, and domestic diversions.
5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
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 # 82151
37-8055 & 37-8891

This map depicts the STOCKWATER place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



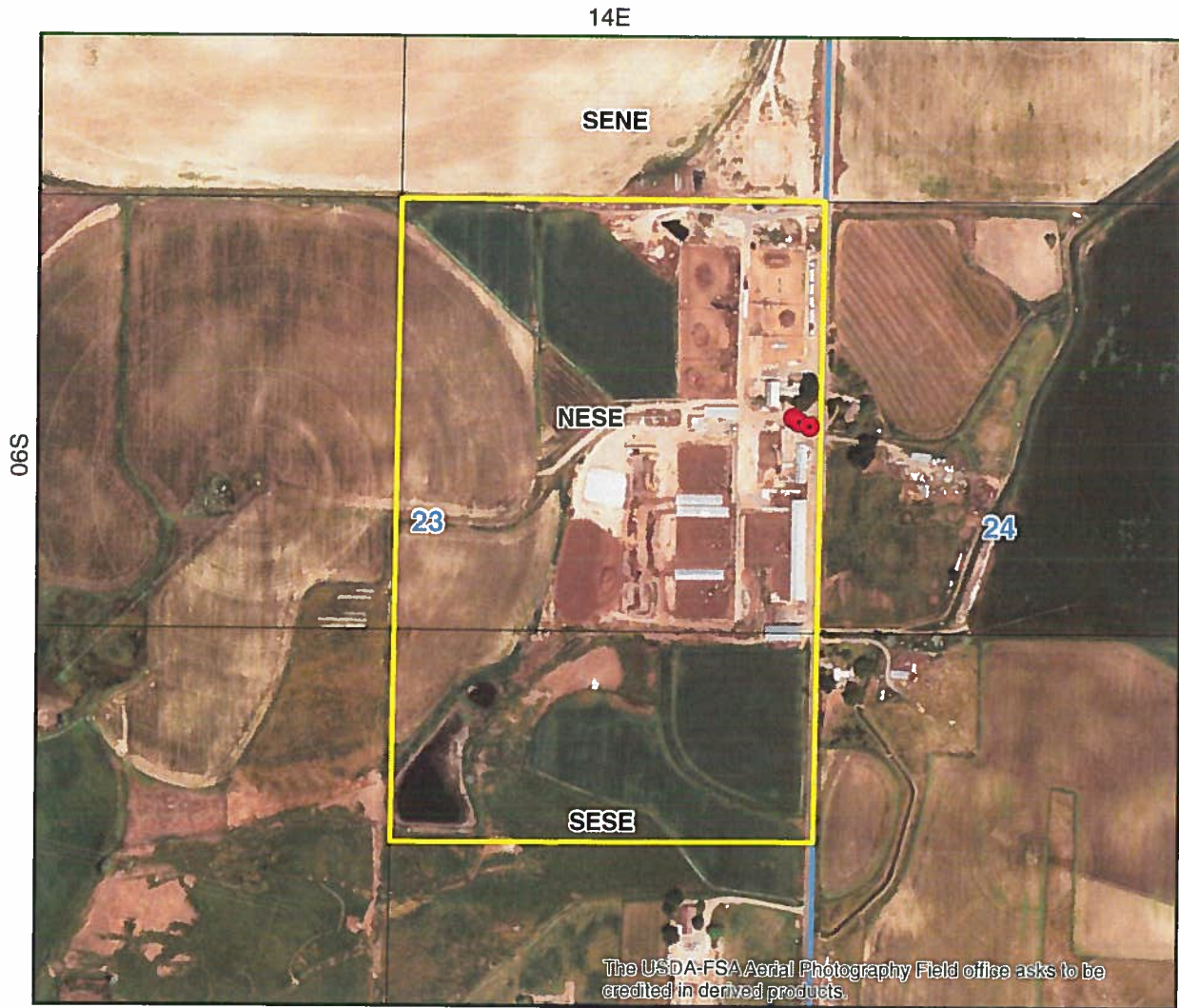
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.05 0.1 0.2 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 82151
37-8055 & 37-8891

This map depicts the COMMERCIAL place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



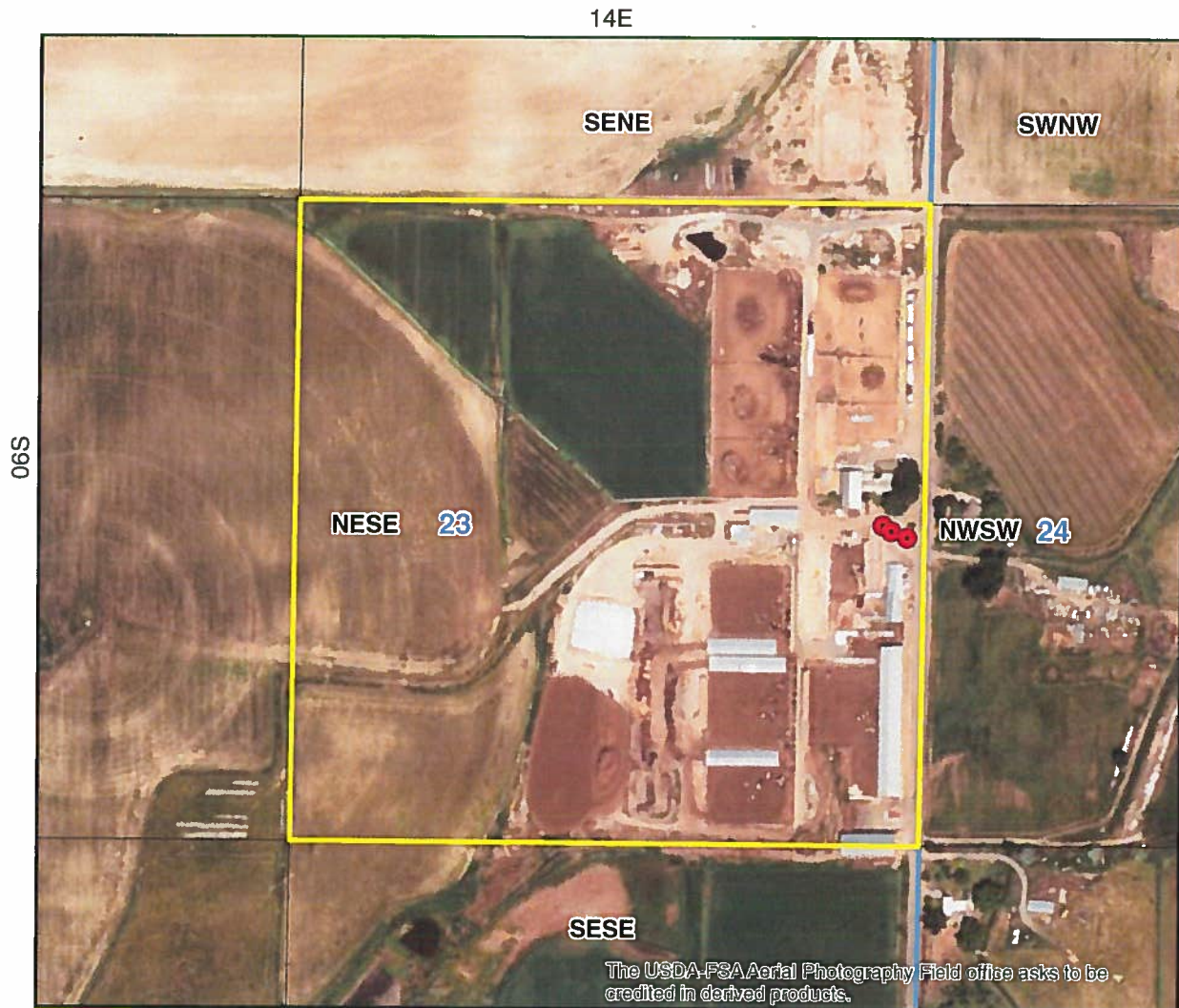
-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.05 0.1 0.2 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 82151
37-8055

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.



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

0 0.045 0.09 0.18 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED**FEB 14 2018**

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

WATER RESOURCES
SOUTHERN REGION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split

1. **APPLICANT(S)** Daryl & Elaine Hilt Phone (208) 934-8507

2. **MAILING ADDRESS** 2163 S. 1700 E. City Gooding

State ID Zip 83330 Email _____

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 37-8055, 37-8891

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.38 cubic feet per second and/or 90.5 acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
n			NE	SE	23	06S	14E	Gooding	Ground Water	WMIS# 400109
n			NE	SE	23	06S	14E	Gooding	Ground Water	WMIS# 400110
y			NE	SE	23	06S	14E	Gooding	Ground Water	WMIS# 700027

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 37-8891

Current Owner: DARYL HILT
ELAINE HILT

Priority Date: 3/25/1974

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.3 CFS	42 AF
COMMERCIAL	01/01 to 12/31	0.3 CFS	25.6 AF
	<u>Total Diversion</u>	0.3 CFS	67.6 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4SE1/4	Sec. 23,	Twp 06S,	Rge 14E B.M.
GOODING County				
GROUND WATER	NE1/4SE1/4	Sec. 23,	Twp 06S,	Rge 14E B.M.
GOODING County				

Place of Use

STOCKWATER Within GOODING County

T06S R14E S23	NESE	T06S R14E S23	SESE
---------------	------	---------------	------

COMMERCIAL Within GOODING County

T06S R14E S23	NESE	T06S R14E S23	SESE
---------------	------	---------------	------

Conditions of Approval:

1. 082 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
2. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
3. Commercial use is for a dairy located within the NESE, S23, T06S, R14E.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 067 The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. WD8 The water used for commercial purposes under this approval is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water shall not irrigate growing plants unless the water is first beneficially used in the dairy as authorized by these water rights.
7. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
8. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. WB4 The total instantaneous diversion of water from all points of diversion under Rights 37-8055 and 37-8891 shall not exceed .038 cfs, nor a total combined annual volume of 90.5 af.
10. Two points of diversion are located within NESE, S23, T06S, R14E.
11. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Decreed Date: 8/27/2001

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 37-8891

Current Owner: DARYL HILT
ELAINE HILT

Priority Date: 3/25/1974

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.3 CFS	42 AF
COMMERCIAL	01/01 to 12/31	0.3 CFS	25.6 AF
	<u>Total Diversion</u>	0.3 CFS	67.6 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4SE1/4	Sec. 23,	Twp 06S,	Rge 14E B.M.
GOODING County				
GROUND WATER	NE1/4SE1/4	Sec. 23,	Twp 06S,	Rge 14E B.M.
GOODING County				

Place of Use

STOCKWATER Within GOODING County

T06S R14E S23	NESE	T06S R14E S23	SESE
---------------	------	---------------	------

COMMERCIAL Within GOODING County

T06S R14E S23	NESE	T06S R14E S23	SESE
---------------	------	---------------	------

Conditions of Approval:

1. 082 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
2. 106 Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
3. Commercial use is for a dairy located within the NESE, S23, T06S, R14E.
4. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 067 The right holder shall record the quantity of water diverted and annually report diversions of water and/or other pertinent hydrologic and system information as required by Section 42-701, Idaho Code.
6. WD8 The water used for commercial purposes under this approval is applied to and irrigates land listed in the place of use to satisfy water quality requirements. Water shall not irrigate growing plants unless the water is first beneficially used in the dairy as authorized by these water rights.
7. T17 Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
8. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. WB4 The total instantaneous diversion of water from all points of diversion under Rights 37-8055 and 37-8891 shall not exceed .038 cfs, nor a total combined annual volume of 90.5 af.
10. Two points of diversion are located within NESE, S23, T06S, R14E.
11. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Decreed Date: 8/27/2001

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Connect existing irrigation well to dairy barn with new piping and approved flow meter to allow flushing and back-up operation. Total diversion for stock, commercial and domestic uses will be limited to existing rights.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Daryl Hilt
Signature of applicant or authorized agent

DARYL HILT OWNER 2-9-17
Print name and title if applicable Date

Elaine Hilt
Signature of applicant or authorized agent

Elaine Hilt owner 2-9-17
Print name and title if applicable Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the [Application for Transfer Instructions](#).

FOR DEPARTMENT USE ONLY

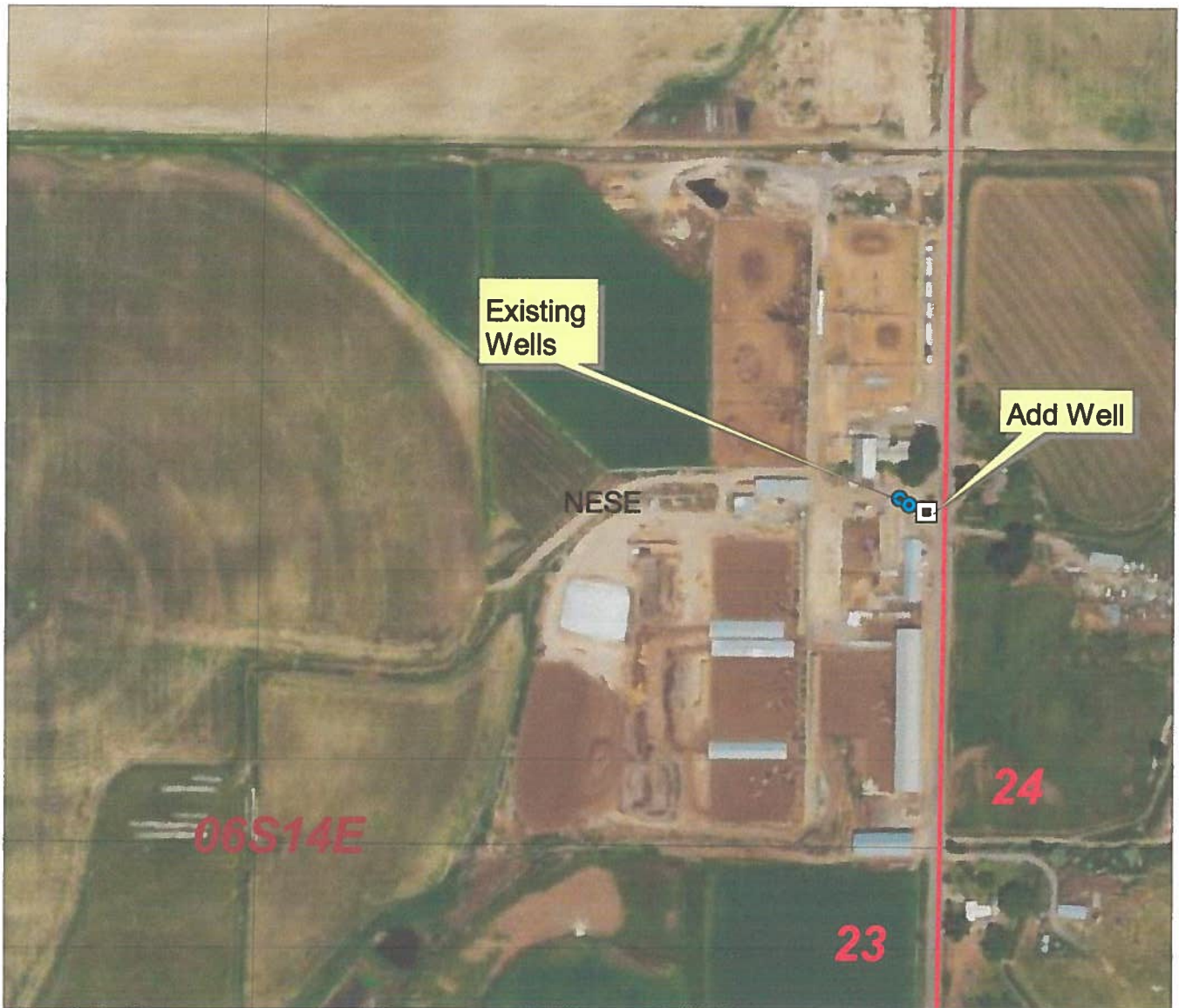
Transfer includes 6 pages ⁺¹ of attachments. Received by DM Date 2-14-2018

Fee paid \$500 Date 2-14-2018 Received by DM Receipt # 5036583

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)



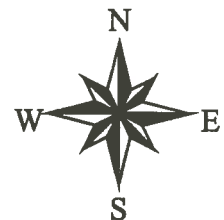
JCH - 2/5/2018

2015 NAIP Aerial Photo



-  Proposed NEW Point of Diversion (37-8055, 37-8891)
-  Existing Points of Diversion (37-8055, 37-8891)

-  Township & Range
-  Sections
-  Gooding County 40's



Application for Water Right Transfer (Add POD) **Attachment #7a**

TRANSFER 82151



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 1, 2018

DARYL HILT
ELAINE HILT
2163 S 1700 E
GOODING ID 83330

Re: Transfer No: 82151
Water Right No(s): 37-8055, 37-8891

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) 736-3033.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

TSK ENTERPRISES LLC
GARY L FUNDERBURG
255 BLUE LAKES BLVD N PMB 617
TWIN FALLS ID 83301

WATER DISTRICT 130
NATHAN ERICKSON
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 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.: 82151
Water Right No(s): 37-8055, 37-8891

DARYL HILT
ELAINE HILT
2163 S 1700 E
GOODING ID 83330

TSK ENTERPRISES LLC
GARY L FUNDERBURG
255 BLUE LAKES BLVD N PMB 617
TWIN FALLS ID 83301

WATER DISTRICT 130 *via e-mail*
NATHAN ERICKSON
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858



Denise Maline
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

Date: April 27, 2018
To: Transfer 82151
From: Allison Inouye
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add an existing well as an authorized point of diversion (POD) to 2 ground water rights that allow for the total combined diversion of 0.38 cfs for stockwater, commercial, and domestic purposes. The proposed POD is located in the same $\frac{1}{4}$ $\frac{1}{4}$ section as the 2 currently authorized PODs. The PODs and place of use (POU) are located approximately 2 miles west and 2.7 miles south of the Highway 46/26 intersection south of Gooding. The current and proposed points of diversion are located within the ESPA model grid boundary. A groundwater model analysis was not performed since the current and proposed points of diversion are located within the same model cell. The PODs and POU are located within Water District 130 and watermaster comments were solicited. The watermaster did not oppose approval of the transfer.

- **Authority to File**
The application is filed in the name of Daryl & Elaine Hilt, the current owners of the water rights being transferred per IDWR records.
- **Water Right Validity**
Water right 37-8891 was decreed in the SRBA in 2001 and right 37-8055 was decreed in 2002. Recent aerial imagery indicates this property contains an active dairy operation. WMIS flow meter data from one of the current points of diversion for these water rights indicates that the well is actively used.
- **Injury to Other Water Rights**
None anticipated. The proposed POD is an existing well located in the same $\frac{1}{4}$ $\frac{1}{4}$ section as the currently authorized PODs.
- **Enlargement of Use**
None anticipated. The application states that the total diversion for stock, commercial and domestic uses will remain limited to the existing rights. The transfer will include conditions regarding measuring device requirements.
- **Local Public Interest**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources**
Proposed uses are recognized as beneficial uses of water.
- **Effect on the Economy of the Local Area**
None anticipated.
- **Effect on the Agricultural Base of the Local Area**
None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Transfer No: 82151
Water Right No: 37-8055, etc.
Applicant Name: Daryl & Elaine Hilt

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

Dated: April 23, 2018

Water District 130



Nathan Erickson, Watermaster



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 14, 2018

WATER DISTRICT #130
NATHAN ERICKSON
650 ADDISON AVE W, STE 500
TWIN FALLS, ID 83301

via hand delivery

RE: Transfer No. 82151
Water Right No(s). 37-8055 & 37-8891

Dear Nathan:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the water master, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

Inouye, Allison

From: Inouye, Allison
Sent: Friday, March 09, 2018 11:52 AM
To: 'Gary Funderburg'
Subject: RE: Daryl & Elaine Hilt transfer application

Hi Mr. Funderburg,

Thank you for your response. It appears that the map included with your email refers to the applicants' irrigation water right, 37-4263. Since that water right is not specifically included in the Hilt's transfer application, I won't be able to make any modifications to the place of use at this time.

The currently pending transfer proposes to add an additional POD to water rights 37-8055 and 37-8891 for commercial, stockwater, and domestic uses. During my research for the transfer, I noticed that the Department's shapefiles representing the places of use may be outdated, particularly for the stockwater place of use. However, those shapefiles are simply a representation of the water rights and it is not mandatory that they be updated. As long as the water right owner is operating within the place of use as it is defined on their actual water right, it is not necessary to make any changes to the place of use shapefiles if they would prefer not to.

In summary, I will continue processing the transfer application proposing to add the point of diversion to the commercial, stockwater, and domestic water rights. I will not be updating the Department's place of use shapefiles at this time.

Feel free to contact me if you have any questions.

Best,
Allison

From: Gary Funderburg [mailto:tskenterprise@cableone.net]
Sent: Wednesday, March 07, 2018 3:22 PM
To: Inouye, Allison <Allison.Inouye@idwr.idaho.gov>
Cc: 'Gary Funderburg' <tskenterprise@cableone.net>
Subject: RE: Daryl & Elaine Hilt transfer application

Ms Allison, Here is the shape file I think you are looking for. Let me know if you need anything else.
Mr.Funderburg.

From: Inouye, Allison [mailto:Allison.Inouye@idwr.idaho.gov]
Sent: Monday, March 5, 2018 4:48 PM
To: tskenterprise@cableone.net
Subject: Daryl & Elaine Hilt transfer application

Hi Gary,

We are processing Daryl & Elaine Hilt's transfer application, adding an existing well as a POD for water rights 37-8055 and 37-8891. I realize that the places of use are not changing as part of the transfer, but I would like to get the Department's shapefiles updated with the correct place of use for these rights. Could the applicant please provide a set of maps showing the places of use for the commercial, stockwater, and domestic uses for these 2 water rights? Alternatively, the applicant could stop by our office and we could update the places of use together in person.

Let me know if you have any questions or concerns.
Thank you,

Allison

Allison Inouye

Water Resource Agent

Southern Regional Office | Idaho Dept. of Water Resources

p (208) 736-3033 | f (208) 736-3037

Allison.Inouye@idwr.idaho.gov

Inouye, Allison

From: Work <tskenterprise@cableone.net>
Sent: Tuesday, March 06, 2018 7:25 AM
To: Inouye, Allison
Subject: Re: Daryl & Elaine Hilt transfer application

Ms Allison,

Thank you for your respond to the Hilt transfer. We have discuss this with the Hilt and they were not interested in cleaning up their water rights in relation to the property. I know for a fact their commercial use has expanded into their irrigation water right. We have run a shape file and I can send it to you.

They have health issues at this time and their son is over seeing the property. I will try again to persuade them to add the shape file to their transfer. Respectfully to my client we will do what is right for them to up grade their water rights record.

I will be in touch with you as soon as I have met with them. Thank You for your concern.

Respectfully yours

Gary Funderburg
TSKENTERPRISE LLC

Sent from my iPhone

On Mar 5, 2018, at 4:47 PM, Inouye, Allison <Allison.Inouye@idwr.idaho.gov> wrote:

Hi Gary,

We are processing Daryl & Elaine Hilt's transfer application, adding an existing well as a POD for water rights 37-8055 and 37-8891. I realize that the places of use are not changing as part of the transfer, but I would like to get the Department's shapefiles updated with the correct place of use for these rights.

Could the applicant please provide a set of maps showing the places of use for the commercial, stockwater, and domestic uses for these 2 water rights? Alternatively, the applicant could stop by our office and we could update the places of use together in person.

Let me know if you have any questions or concerns.

Thank you,
Allison

Allison Inouye
Water Resource Agent
Southern Regional Office | Idaho Dept. of Water Resources
p (208) 736-3033 | f (208) 736-3037
Allison.Inouye@idwr.idaho.gov

MEMORANDUM

Date: February 28, 2018
To: Transfer 82151
From: Allison Inouye
Re: Legal Notice Not Required

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. The transfer proposes to add an existing well as a POD and the well lies within the POU of the water rights involved. The proposed POD lies within the ESPA; however it is within the same model grid cell as the current PODs so no mitigation analysis is required. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

MEMORANDUM

Date: February 26, 2018

To: Transfer 82151

From: Allison Inouye

Re: Transfer Synopsis

Application for transfer proposes to add an existing well as an authorized point of diversion (POD) to 2 ground water rights that allow for the total combined diversion of 0.38 cfs for stockwater, commercial, and domestic purposes. The proposed POD is located in the same $\frac{1}{4}$ $\frac{1}{4}$ section as the 2 currently authorized PODs. The PODs and place of use (POU) are located approximately 2 miles west and 2.7 miles south of the Highway 46/26 intersection south of Gooding. The current and proposed points of diversion are located within the ESPA model grid boundary. A groundwater model analysis was not performed since the current and proposed points of diversion are located within the same model cell. The PODs and POU are located within Water District 130 and watermaster comments will be solicited.

MEMORANDUM

Date: February 26, 2018

To: Transfer 82151

From: Allison Inouye

Re: Filing Fee

The filing fee for this transfer is based on the total amount of water being transferred, 0.38 cfs. The transfer fee schedule indicates that the filing fee is \$500 for a transfer involving 0.21 – 1.00 cfs. (Receipt No. S036583)

RECEIVED

FEB 14 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION



255 Blue Lakes Blvd N
PMB 617
Twin Falls, ID 83301
Cell: 208-320-0897

February 12, 2018

Nathan Erickson,

Please find enclosed an application for a transfer to add a point of diversion as requested by Lisa Hutcheson of the Water Distribution Section in the State Office. A check in the Amount of \$500.00-Check # 18532 for the filling fee. Also a measuring device requested which has been installed at this time.

On December 29, 2017 Lisa Hutcheson inform the Chuck Hilt in a letter they were required to add their Irrigation well to the Dairy (commercial) water right since they were using the well/ for flushing their dairy waste to the lagoon.

If you need further assistance, you may contact me at the above ph#.

Once again, thank you for your support.

Sincerely,

Gary Funderburg

TSKEnterprise@cableone.net

255 Blue Lakes Blvd N

PMB 617

Twin Falls, ID 83301

Cell: 208-320-0897

Cc: Darrel Hilt