

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 82052**

This is to certify that: **FAULKNER LAND & LIVESTOCK CO INC**  
1989 S 1875 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> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 37-7808            | WR/LICENSE          | 11/16/1979           | 3.260 cfs             | 570.5 af                | N/A               | 163.0              | GROUND WATER  |
| 37-8005B           | WR/DECREED          | 3/20/1982            | 2.020 cfs             | 444.0 af                | 111.0             | 264.0              | GROUND WATER  |
| 37-8005C           | WR/DECREED          | 3/20/1982            | 1.600 cfs             | 488.0 af                | 122.0             | 264.0              | GROUND WATER  |
| 37-8005D           | WR/DECREED          | 3/20/1982            | 0.410 cfs             | 124.0 af                | 31.0              | 264.0              | 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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-7808               | NO           | NO         | YES        | YES            | NO                   | NO                   |
| 37-8005B              | NO           | NO         | YES        | YES            | NO                   | NO                   |
| 37-8005C              | NO           | NO         | YES        | YES            | NO                   | NO                   |
| 37-8005D              | NO           | NO         | YES        | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-7808                | 37-7808                          | 3.260 cfs            | 570.5 af               | 163.0             | 427.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-8005B               | 37-8005B                         | 2.020 cfs            | 444.0 af               | 111.0             | 427.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-8005C               | 37-8005C                         | 1.600 cfs            | 488.0 af               | 122.0             | 427.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-8005D               | 37-8005D                         | 0.410 cfs            | 124.0 af               | 31.0              | 427.0              | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>7.290 cfs</b>     | <b>* 1626.5 af *</b>   | <b>427.0</b>      | <b>427.0</b>       |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

\* See conditions of approval for quantity limitations

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 13<sup>th</sup> day of March, 2018.

  
Southern Region Manager

**SUPPORT DATA**

Transfer No. 82052

**IN FILE # 37-7808**

**WATER RIGHT NO. 37-7808****As Modified by Transfer No. 82052**

In accordance with the approval of Transfer No. 82052, Water Right No. 37-7808 is now described as follows:

**Right Holder:** FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING, ID 83330

**Priority Date:** 11/16/1979

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From**

04/15

to

**To**

10/15

**Diversion Rate**

3.260 cfs

3.260 cfs

**Diversion Volume**

570.5 af

570.5 af

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

GROUND WATER

NESW

Sec 8 Twp 06S Rge 14E GOODING County

GROUND WATER

NESW

Sec 8 Twp 06S Rge 14E GOODING County

**PLACE OF USE: IRRIGATION**

| Twp | Rng | Sec | NE  |    |    |    | NW |     |     |    | SW |    |    |    | SE |    |     |    | Totals |
|-----|-----|-----|-----|----|----|----|----|-----|-----|----|----|----|----|----|----|----|-----|----|--------|
|     |     |     | NE  | NW | SW | SE | NE | NW  | SW  | SE | NE | NW | SW | SE | NE | NW | SW  | SE |        |
| 06S | 14E | 8   | 1.4 | 22 | 34 | 35 | 38 | 7.7 | 35  | 36 | 29 | 28 |    |    | 35 | 29 | 0.3 | 32 | 362.4  |
| 06S | 14E | 9   |     |    |    |    |    |     | 0.6 |    |    | 31 | 33 |    |    |    |     |    | 64.6   |

Right Acre Limit: 163.0

POU Total Acres: 427.0

**CONDITIONS OF APPROVAL**

1. Pursuant to the approval of Transfer 71642, Right 37-7808 is limited to the following schedule of allowed diversion rate and volume. The diversion of water shall be evenly distributed throughout the authorized season of use, except that minor variations are allowed for seasonal fluctuations in water requirements.

From year 2006 and beyond the right is limited to 1.76 cfs and 308.1 afa for the use of irrigation of 163 acres within the place of use described above in a single irrigation season. The un-diverted portion of the right is 1.50 cfs and 262.4 afa that is used to mitigate Transfer 71642.

2. The model used to calculate depletion effects and mitigation for the Milner to King Hill reach may also show gains in other reaches of the Snake River. Such gains have not been quantified at this time. The right holder retains the right to seek quantification of such gains resulting from Transfer approval 71642. Protestants retain the right to object to the quantification of such gains. If such reach gains are quantified and acknowledged by the Department, credits for such gains shall be available for use only after the Department has implemented a system for administering such credits.

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**WATER RIGHT NO. 37-7808**  
**As Modified by Transfer No. 82052**

**CONDITIONS OF APPROVAL**

3. This right is limited to the irrigation of 163 acres within the authorized place of use in a single irrigation season.
4. Rights 37-7808, 37-8005B, 37-8005C, and 37-8005D when combined shall not exceed a total diversion rate of 5.79 cfs, a total annual maximum diversion volume of 1364.1 af at the field headgate, and the irrigation of 427 acres.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. 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.
7. 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).
8. Prior to the diversion and use of water under Transfer approval 82052, 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.
9. 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.
10. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/15 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the Transfer 71642 approval date of 9/22/2006.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

**WATER RIGHT NO. 37-8005B****As Modified by Transfer No. 82052**

In accordance with the approval of Transfer No. 82052, Water Right No. 37-8005B is now described as follows:

**Right Holder:** FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING, ID 83330

**Priority Date:** 3/20/1982

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From** 04/01 **to** 11/01

**Diversion Rate**

2.020 cfs  
2.020 cfs

**Diversion Volume**

444.0 af  
444.0 af

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

GROUND WATER NESW  
GROUND WATER NESW

Sec 8 Twp 06S Rge 14E GOODING County  
Sec 8 Twp 06S Rge 14E GOODING 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 |        |
| 06S | 14E | 8   | 1.4 | 22 | 34 | 35 | 38 | 7.7 | 35  | 36 | 29 | 28 |    |    | 35 | 29 | 0.3 | 32 | 362.4  |
| 06S | 14E | 9   |     |    |    |    |    |     | 0.6 |    |    | 31 | 33 |    |    |    |     |    | 64.6   |

Right Acre Limit: 111.0

POU Total Acres: 427.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 111 acres within the place of use described above in a single irrigation season.
2. Rights 37-7808, 37-8005B, 37-8005C, and 37-8005D when combined shall not exceed a total diversion rate of 5.79 cfs, a total annual maximum diversion volume of 1364.1 af at the field headgate, and the irrigation of 427 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
5. 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. 82052

**WATER RIGHT NO. 37-8005B**

**As Modified by Transfer No. 82052**

**CONDITIONS OF APPROVAL**

6. Prior to the diversion and use of water under Transfer approval 82052, 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.
7. 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.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the SRBA partial decree date of 12/11/2002.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 37-8005C****As Modified by Transfer No. 82052**

In accordance with the approval of Transfer No. 82052, Water Right No. 37-8005C is now described as follows:

**Right Holder:** FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING, ID 83330

**Priority Date:** 3/20/1982

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From**

04/01

to

**To**

11/01

**Diversion Rate**

1.600 cfs

1.600 cfs

**Diversion Volume**

488.0 af

488.0 af

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

GROUND WATER NESW  
GROUND WATER NESW

Sec 8 Twp 06S Rge 14E GOODING County  
Sec 8 Twp 06S Rge 14E GOODING 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 |        |
| 06S | 14E | 8   | 1.4 | 22 | 34 | 35 | 38 | 7.7 | 35  | 36 | 29 | 28 |    |    | 35 | 29 | 0.3 | 32 | 362.4  |
| 06S | 14E | 9   |     |    |    |    |    |     | 0.6 |    |    | 31 | 33 |    |    |    |     |    | 64.6   |

Right Acre Limit: 122.0

POU Total Acres: 427.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 122 acres within the place of use described above in a single irrigation season.
2. Rights 37-7808, 37-8005B, 37-8005C, and 37-8005D when combined shall not exceed a total diversion rate of 5.79 cfs, a total annual maximum diversion volume of 1364.1 af at the field headgate, and the irrigation of 427 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
5. 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. 82052

**WATER RIGHT NO. 37-8005C**  
**As Modified by Transfer No. 82052**

**CONDITIONS OF APPROVAL**

6. Prior to the diversion and use of water under Transfer approval 82052, 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.
7. 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.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the SRBA partial decree date of 12/11/2002.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 37-8005D****As Modified by Transfer No. 82052**

In accordance with the approval of Transfer No. 82052, Water Right No. 37-8005D is now described as follows:

**Right Holder:** FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING, ID 83330

**Priority Date:** 3/20/1982

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From**

04/01

to

**To**

11/01

**Diversion Rate**

0.410 cfs

0.410 cfs

**Diversion Volume**

124.0 af

124.0 af

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

GROUND WATER NESW  
GROUND WATER NESW

Sec 8 Twp 06S Rge 14E GOODING County  
Sec 8 Twp 06S Rge 14E GOODING County

**PLACE OF USE: IRRIGATION**

| Twp | Rng | Sec | NE  |    |    |    | NW |     |     |    | SW |    |    |    | SE |    |     |    | Totals |
|-----|-----|-----|-----|----|----|----|----|-----|-----|----|----|----|----|----|----|----|-----|----|--------|
|     |     |     | NE  | NW | SW | SE | NE | NW  | SW  | SE | NE | NW | SW | SE | NE | NW | SW  | SE |        |
| 06S | 14E | 8   | 1.4 | 22 | 34 | 35 | 38 | 7.7 | 35  | 36 | 29 | 28 |    |    | 35 | 29 | 0.3 | 32 | 362.4  |
| 06S | 14E | 9   |     |    |    |    |    |     | 0.6 |    |    | 31 | 33 |    |    |    |     |    | 64.6   |

Right Acre Limit: 31.0

POU Total Acres: 427.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 31 acres within the place of use described above in a single irrigation season.
2. Rights 37-7808, 37-8005B, 37-8005C, and 37-8005D when combined shall not exceed a total diversion rate of 5.79 cfs, a total annual maximum diversion volume of 1364.1 af at the field headgate, and the irrigation of 427 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
5. 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. 82052

**WATER RIGHT NO. 37-8005D**

**As Modified by Transfer No. 82052**

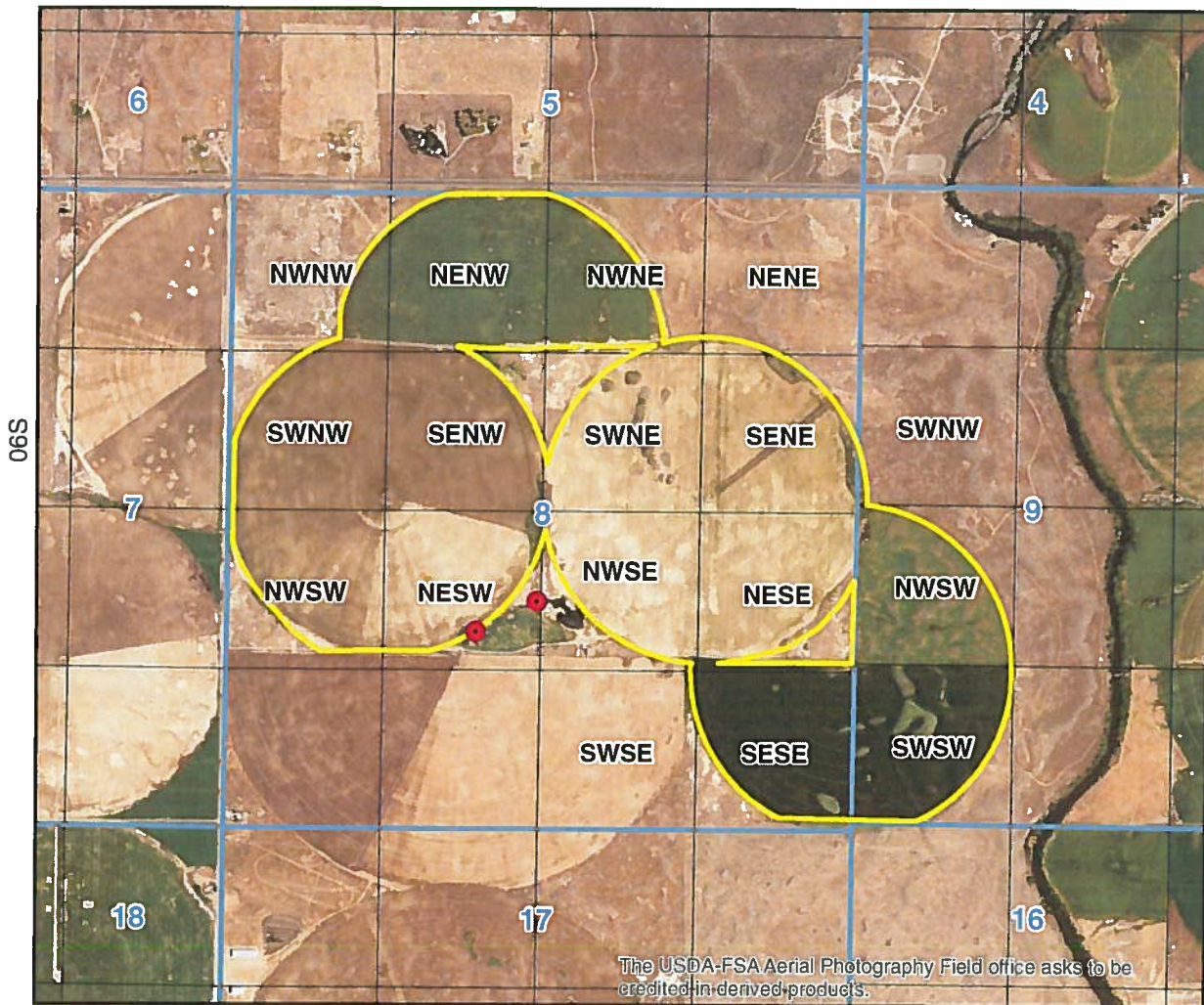
**CONDITIONS OF APPROVAL**

6. Prior to the diversion and use of water under Transfer approval 82052, 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.
7. 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.
8. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the SRBA partial decree date of 4/1/2003.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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 # 82052**  
Rights 37-7808, 37-8005B, 37-8005C, and 37-8005D

This map depicts the IRRIGATION 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.

14E



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

0 0.175 0.35 0.7 Miles





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](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

March 15, 2018

FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING ID 83330

Re: Transfer No: 82052  
Water Right No(s): 37-7808, 37-8005B, 37-8005C, 37-8005D

### 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:

MC FINNEY AGRI FINANCE LLC  
PO BOX 1598  
TWIN FALLS ID 83303-1598

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

## **CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 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.: 82052**

**Water Right No(s): 37-7808, 37-8005B, 37-8005C, 37-8005D**

**FAULKNER LAND & LIVESTOCK CO INC  
1989 S 1875 E  
GOODING ID 83330**

**MC FINNEY AGRI FINANCE LLC  
PO BOX 1598  
TWIN FALLS ID 83303-1598**

**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:** February 1, 2018  
**To:** Transfer 82052  
**From:** Allison Inouye  
**Re:** Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to create a 427 acre permissible place of use (PPU) for 4 ground water rights that allow for the total combined diversion of 7.29 cfs and the irrigation of 427 acres. In addition to creating a PPU, the transfer proposes adding an existing well as an authorized point of diversion (POD) to the 4 water rights. The proposed POD is located in the same  $\frac{1}{4}$   $\frac{1}{4}$  section as the currently authorized POD. The PPU and PODs are located approximately 4.7 - 6 miles west and 0 - 1 mile south of the Highway 46/26 intersection south of Gooding. The PPU and PODs are located within Water District 130 and watermaster comments were solicited. The watermaster did not object to the approval of the transfer.

- **Authority to File**

The application is filed in the name of Faulkner Land & Livestock Co Inc, the owners of the water rights being transferred per IDWR records. Information from the IDSOS website indicates that the individual who signed the application can sign on behalf of the organization. A letter of authorization from McFinney AgriFinance LLC, who has a security interest in the right, has also been included with the application.

- **Water Right Validity**

Water right 37-7808 was licensed in 1997. Rights 37-8005B and 37-8005C were decreed in the SRBA in 2002, and right 37-8005D was decreed in 2003. All four water rights were included in an approved transfer in 2006 (Transfer 71642). Recent aerial imagery indicates that the properties involved with this transfer appear irrigated.

- **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 POD. The current and proposed PODs are located within the ESPA model grid boundary; however, a groundwater model analysis was not performed since the current and proposed points of diversion are located within the same model grid cell.

- **Enlargement of Use**

None anticipated. The water rights will be limited to a combined total of 427 acres. Right 37-7808 is subject to conditions that limit the allowed diversion rate and volume in order to mitigate Transfer 71642. A condition noting the combined limits of all rights that reflects the reduced rate and volume of right 37-7808 will be added to all rights involved in this transfer.

- **Local Public Interest**

No issues anticipated. Application was subject to public notice. No protests were received.

- **Beneficial Use/Conservation of Water Resources**

Proposed use is recognized as a beneficial use 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.**

**\*\* Proof of Publication \*\***

Twin Falls Times-News  
132 Fairfield St W, Twin Falls, Idaho 83301

RUBY AUFDERHEIDE, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES  
650 ADDISON AVE W, STE 500  
TWIN FALLS, ID 83301

ORDER NUMBER 60068

Ruby Aufderheide  
(Legals Clerk)

STATE OF IDAHO )  
                          .SS  
COUNTY OF TWIN FALLS )

On this 11 day of Jan. in the year of 2018 before me, a Notary Public, personally appeared before me Ruby Aufderheide known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Walter Smith  
Notary Public FOR Idaho  
Residing at: Twin Falls, Idaho  
My Commission expires: 6-13-2023

PUBLISHED ON: 01/04/2018, 01/11/2018

TOTAL AD COST: 93.39  
FILED ON: 1/11/2018

NOELLE R. SMITH  
Notary Public  
State of Idaho

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 82052**

FAULKNER LAND & LIVESTOCK CO INC, 1989 S 1875 E, GOODING, ID 83330; has filed Application No. 82052 for changes to the following water rights within GOODING County(s): Right No(s). 37-7808, 37-8005B, 37-8005C, 37-8005D; to see a full description of these rights and the proposed transfer, please see [www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx](http://www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx). The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to create a 427 acre permissible place of use (PPU) for 4 ground water rights that allow for the total combined diversion of 7.29 cfs and the irrigation of 427 acres. In addition, the transfer proposes adding an existing well as an authorized point of diversion (POD) to the 4 water rights. The PPU and PODs are located approximately 4.7 to 6 miles west and 0 to 1 mile south of the Highway 46 & 26 intersection south of Gooding.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before **January 22, 2018**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director  
Published on January 4th & 11th, 2018

**RECEIVED**

**JAN 18 2018**

DEPT OF WATER RESOURCES  
SOUTHERN REGION

✓ OK DM 1-19-2018

State of Idaho  
Department of Water Resources

**RECOMMENDATION OF WATERMASTER**

Transfer No: 82052  
Water Right No: 37-7808, etc.  
Applicant Name: FAULKNER LAND & LIVESTOCK CO INC

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:** January 12, 2018

**Water District 130**

  
\_\_\_\_\_  
**Nathan Erickson, Watermaster**

## Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 60068

|             |                                  |                 |                         |
|-------------|----------------------------------|-----------------|-------------------------|
| Publication | Times News                       |                 |                         |
| Contact     | ID DEPARTMENT OF WATER RESOURCES | PO Number       |                         |
| Address 1   | 650 ADDISON AVE W, STE 500       | Rate            | Legal Notice            |
| Address 2   |                                  | Order Price     | 93.39                   |
| City St Zip | TWIN FALLS ID 83301              | Amount Paid     | 0.00                    |
| Phone       | 2087363033                       | Amount Due      | 93.39                   |
| Fax         |                                  |                 |                         |
| Section     | Legals                           | Start/End Dates | 01/04/2018 - 01/11/2018 |
| SubSection  |                                  | Insertions      | 2                       |
| Category    | 50 Legal                         | Size            | 58                      |
| Ad Key      | 60068-1                          | Salesperson(s)  | Ruby Aufderheide        |
| Keywords    | Faulkner Water Transfer          | Taken By        | Ruby Aufderheide        |
| Notes       |                                  |                 |                         |

Ad Proof

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TRANSFER NO. 82052**

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GARY SPACKMAN, Director

Published on January 4th & 11th, 2018

✓ OK DM 1-2-2018  
E-mail sent to newspaper

**Proof of legal notice received  
from Times News 1/2/2018**