

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 82108

This is to certify that: THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE
#1101
SEATTLE, WA 98101

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>
37-426B	WR/DECREED	4/1/1887	1.050 cfs	N/A	N/A	28.0	SILVER CREEK

Purpose of Transfer (Changes Proposed)

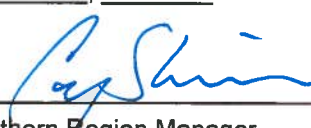
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-426B	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-426B	37-426B	1.050 cfs	N/A	N/A	28.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.050 cfs	N/A	N/A	28.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 20th day of March, 2018.



Southern Region Manager

Transfer No. 82108

WATER RIGHT NO. 37-426B
As Modified by Transfer No. 82108

In accordance with the approval of Transfer No. 82108, Water Right No. 37-426B is now described as follows:

Right Holder: THE WILLOWS AT SILVER CREEK LLC
 1301 4TH AVE
 #1101
 SEATTLE, WA 98101

Priority Date: 4/1/1887

Source: SILVER CREEK

Tributary: LITTLE WOOD RIVER

BENEFICIAL USE
 IRRIGATION

From 04/15 **to** 10/31

Diversion Rate
 1.050 cfs
 1.050 cfs

LOCATION OF POINT(S) OF DIVERSION

SILVER CREEK NESW Sec 20 Twp 01S Rge 20E BLAINE 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	
01S	20E	20			1.0					27.0									28.0

POU Total Acres: 28.0

CONDITIONS OF APPROVAL

1. 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. 37.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 82108

WATER RIGHT NO. 37-426B
As Modified by Transfer No. 82108

CONDITIONS OF APPROVAL

6. 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 # 82108
37-426B

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



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

0 0.05 0.1 0.2 Miles



RECEIVED

MAR 09 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR TRANSFER

To change the ownership of an application for transfer

Page 1 of 2 is to be completed by the current transfer applicant. Notarization required.
Page 2 of 2 is to be completed by the new transfer applicant. Notarization not required.

I, Picbo Livestock Company, Inc., hereby assign to
Current Applicant(s)
The Willows at Silver Creek, LLC
New Applicant(s)
of, 1301 4th Ave., #1101
Mailing address
Seattle WA 98101
City State ZIP
Telephone No.

All my right, title, and interest in and to Application for Transfer No. 82108.

Made this 12 day of February, 2018.

Leonard N. Purdy, Jr.
Signature of Current Applicant or Authorized Representative

Leonard N. Purdy, Jr. (President)
Print Name and Title (if applicable)

Signature of Current Applicant or Authorized Representative

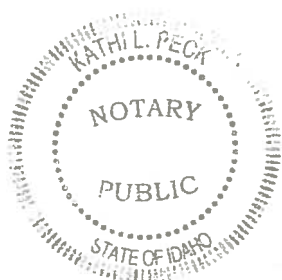
Print Name and Title (if applicable)

State of Idaho)

County of Blaine)ss

On this 12 day of February, 2018, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL



Kathi L. Peck
Notary Public

My commission expires: 8/31/19

Rev. 07/11

Page 1 of 2

✓ data-entry done by Wm 3.12.2018

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR TRANSFER

Name of New Applicant(s) The Willows at Silver Creek LLC Phone (206) 909-5009

Mailing address: 1301 4th Ave #1101

City Seattle State WA Zip 98101 Email greg@urbanvisions.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant.
Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see [fee schedule](#) on application for transfer instructions.
Label it **Attachment #2a**.
- ☒ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Additional fee(s) required for water right ownership changes; see fee schedule on application for transfer instructions.
Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner.
Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative James P. Speck Phone 208-726-4421

Mailing address Speck & Aanestad, A Professional Corp. PO Box 987, Ketchum, ID 83340 Email jim@speckandaanestad.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


Signature of Applicant or Authorized Representative

Gregory B. Smith, Manager
Print Name and Title if applicable

2/7/18
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

NOTE: Include the appropriate attachments and fee(s) identified above with this assignment form.

Instrument # 649668

HAILEY, BLAINE, IDAHO
 02-05-2018 9:43:31 AM No. of Pages: 1
 Recorded for: JONES GLEDHILL FUHRMAN GOURLEY, P.A.
 JOLYNN DRAGE Fee: \$15.00
 Ex-Officio Recorder Deputy: BH
 Electronically Recorded by Simplifile

QUITCLAIM DEED- WATER RIGHT

Picabo Livestock Company, Inc., hereinafter "Grantor," does release and forever quitclaim unto The Willows at Silver Creek, LLC, whose address is 1301 4th Ave., #1101, Seattle, WA hereinafter "Grantee," and assigns, all right, title and interest which Grantor now has or may hereafter acquire in the following described water right situated in Blaine County, State of Idaho, to-wit:

Idaho Water Right 37-426B in entirety

Grantor understands that said right is appurtenant to real property in Blaine County, a portion of which was previously transferred to Grantee by Deed recorded January 23rd, 2018 as instrument #649478, records of Blaine County, Idaho. The portion of the Water Right appurtenant to other adjoining property was previously conveyed to Grantor by Quitclaim Deed recorded February 1st, 2018 as Instrument # 649647, records of Blaine County, Idaho.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto Grantee, and assigns forever.

WITNESS the hand of said Grantor this 2 day of February, 2018.

By Grantor: Leonard N. Purdy, Jr.
 Picabo Livestock Company, Inc.
 Leonard N. Purdy, Jr. (President)

STATE OF IDAHO)
)
 County of Blaine) :ss

On this 2nd day of February, in the year 2018, before me, _____, a Notary Public, personally appeared Leonard N. Purdy, Jr., known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

(SEAL)



Kathryn L. Peck
 Notary Public for Idaho
 Commission expires: 8/31/19

RECEIVED

FEB 05 2018

Upon Recording Return to:
Derrick J. O'Neill
300 Main St., Ste. 150
Boise, ID 83702
8251.50404

DEPT OF WATER RESOURCES
SOUTHERN REGION

Via E-mail

Instrument # 648284

HAILEY, BLAINE, IDAHO

11-27-2017 03:43:34 PM No. of Pages: 9

Recorded for : DERRICK J ONEILL

JOLYNN DRAGE

Ex-Officio Recorder Deputy Fee: 34.00

Index to: MISC AFFIDAVITS

BH

IDAHO CODE SECTION 55-816 AFFIDAVIT OF CORRECTION

STATE OF Idaho)
County of Ada) ss.

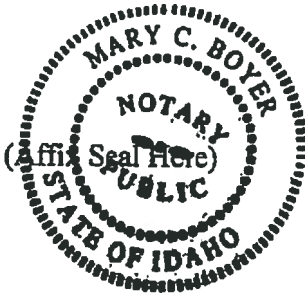
COMES NOW, State of Idaho by and through the Idaho Fish and Game Commission and the Idaho Department of Fish and Game, as Grantor under a Deed with Reservation of Easements, and Picabo Livestock Company, Inc. as the intended Grantee under said Deed, and first duly sworn upon oath, deposes and says:

- 1) On February 2nd 2016, Grantor executed and delivered a Deed with Reservation of Easements to Grantee. The Deed incorrectly identified Grantee as Picabo Land and Livestock Company. The Deed recorded February 2nd, 2016 as instrument #632816, mortgage records of Blaine County, Idaho. A true and correct copy of said Deed is attached hereto as Exhibit A. This affidavit corrects said Deed to properly identify the Grantee as Picabo Livestock Company, Inc.
- 2) All other provisions on the Deed recorded February 2nd, 2016 as instrument #632816, mortgage records of Blaine County, Idaho, shall remain the same and said Deed shall remain enforceable as and from the date originally executed and recorded.

FURTHER YOUR AFFIANT SAITH NOT.

By: *Ving Shoup*
Grantor- State of Idaho, by and through the
Idaho Fish and Game Commission and the
Idaho Department of Fish and Game

Subscribed and sworn to (or affirmed) before me on this November 13th day of November, 2017, by Virgin Mace who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Mary C. Boyer
Notary Public

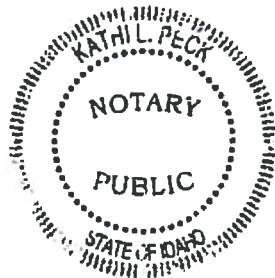
My Commission Expires:

My commission expires
August 31, 2023

By: Picabo Livestock Co. by Nick Purdy
Grantee: Picabo Livestock Company, Inc.

Subscribed and sworn to (or affirmed) before me on this 7th day of November, 2017, by Nick Purdy who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Affix Seal Here)



Kathi L. Peck
Notary Public

My Commission Expires: 8/31/19

FEB 05 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION**DEED WITH RESERVATION OF EASEMENTS**

FOR VALUE RECEIVED, THE STATE OF IDAHO, by and through the IDAHO FISH AND GAME COMMISSION and the IDAHO DEPARTMENT OF FISH AND GAME, hereinafter called the Grantor, with administrative offices located at 600 South Walnut Street, P. O. Box 25, Boise, Idaho 83707, hereby grants, bargains, sells and conveys unto the PICABO LAND AND LIVESTOCK COMPANY, hereinafter called the Grantee, whose current address is PO Box 688, Picabo, ID 83348, the following described premises, Lot 1, of Picabo Willows Subdivision, Inst. No. 631333, depicted in Exhibit D, situated in Blaine County, Idaho, to-wit:

Descriptions attached hereto as Exhibits A, B, C and D, and by this reference incorporated herein,

RESERVING UNTO GRANTOR the following easements: (1) A perpetual, non-exclusive easement to construct and maintain a 30 foot-wide road, hereinafter called road easement right-of-way, through that portion of the Grantor's real property more particularly described in Exhibit A attached hereto that portion of the above-described property. The road easement right-of-way granted by this deed is for the public's use and enjoyment of the newly constructed road via motorized and non-motorized means of travel, for the purpose of ingress and egress to the Grantor's property known as the Silver Creek West Access Area. This road easement right-of-way shall be subject to the following terms and conditions: (i) Grantor shall, at all times, be solely responsible for the maintenance of the road within the road easement right-of-way and shall pay for the materials and labor related to the construction, maintenance, or operation of the road easement right-of-way, (ii) Discharge of firearms is prohibited on the road easement right-of-way, as is any use of the road easement right-of-way that would endanger health, create a nuisance, or otherwise be deemed unsafe, (iii) Grantor will comply with all Federal, State, County and Municipal laws, ordinances, or regulations now or as may be in effect from time to time and will obtain all necessary permits or licenses which are applicable to the construction, use, or operation of the road easement right-of-way, and, (iv) Grantor shall, if the road is abandoned, reshape and contour the road easement lands back to the condition they were in prior to construction, (v) Grantor shall, if they so choose, purchase an easement at appraised market value to widen the road easement right-of-way to meet Blaine County private road standards and to accommodate a public utilities corridor across the subject property;

(2) A perpetual, non-exclusive 30 foot-wide Conservation Easement along Silver Creek, hereinafter called the conservation easement corridor, through that portion of the Grantor's real property more particularly described in Exhibit B attached hereto that portion of the above-described property. The conservation easement corridor granted by this deed is for the protection and preservation of the riparian habitat located in this conservation easement

DEED WITH RESERVATION OF EASEMENT - Page 1 **Instrument # 632816**

HAILEY, BLAINE, IDAHO
2-2-2016 11:06:58 AM No. of Pages: 7
Recorded for: IDAHO FISH AND GAME
JOLYNN DRAGE Fee: 0.00
Ex-Office Recorder Deputy
Index to: MISC DEEDS

Ex. A

corridor. This conservation easement corridor shall be subject to the following terms and conditions: (i) The Grantor intends that this conservation easement corridor shall preserve in perpetuity the conservation values of the conservation easement, consistent with the Grantor's prior management, which was pursuant to a grant awarded by U.S. Fish and Wildlife Service under Sport Fish Restoration 16U.S.C.777, CFDA 15.605. The conservation values include, but are not limited to, conserving riparian vegetative communities and habitat for wildlife, to protect rare and native plants, and to preserve the relative natural features of the conservation easement corridor, except for, (ii) a 120-foot wide viewing lane along Silver Creek, more specifically described in Exhibit B is excluded from the terms of this conservation easement corridor, however, Grantee will comply with all Federal, State, County and Municipal laws, ordinances, or regulations now or as may be in effect from time to time and will obtain all necessary permits or licenses which are applicable when working in the 120-foot viewing lane, (iii), Grantee shall have the right to relocate the viewing lane anywhere within the conservation easement corridor on the above-described property, subject to the following conditions, (a) Grantee shall give notice to Grantor of its intent to relocate, (b) Grantee shall rehabilitate the riparian habitat of the abandoned viewing lane to its former condition prior to it being converted to a viewing lane, (c) Grantee shall cause an amendment of this easement describing the new location and restating the purpose to be recorded in the real property records of Blaine County, Idaho. Upon the satisfaction of the above conditions, the viewing lane reserved herein shall automatically be relocated to the new location constructed by Grantee and the former viewing lane shall automatically be subject to the terms and conditions as part of the conservation easement corridor, and, (iv) Grantee will comply with all Federal, State, County and Municipal laws, ordinances, or regulations now or as may be in effect from time to time and will obtain all necessary permits or licenses which are applicable when working in the conservation easement corridor;

(3) A perpetual, non-exclusive 30 foot-wide Access Easement along Silver Creek, hereinafter called the access easement corridor, through that portion of the Grantor's real property more particularly described in Exhibit C attached hereto that portion of the above-described property. The access easement granted by this deed is for the public's use and enjoyment of the access easement corridor for the purpose of ingress and egress to Silver Creek. This access easement shall be subject to the following terms and conditions: (i) If the Grantee constructs fences or other obstacles that restrict ingress and egress through the access easement corridor, the Grantee will provide means of ingress and egress through, over, or around those obstacles, and, (ii) The public's use of the access easement corridor will be limited to foot travel only, and, (iii) The following recreational activities are allowed on lands subject to the access easement corridor: Fishing, hunting, hiking, wildlife viewing, wildlife photography, and Idaho Department of Fish and Game activities associated with the management of the Silver Creek

fishery. All other activities are prohibited unless otherwise approved by the Grantee.

These easements shall run with and constitute servitude upon the above-described lands and shall be binding on the Grantors, their heirs, administrators, executors, assigns and any person who shall, at or after the effective date of this instrument, acquire title to Grantor's real property.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

EXECUTED this 2 day of Feb., 2016

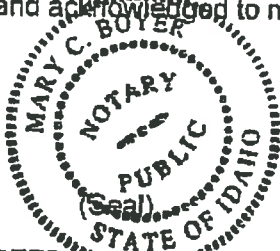
STATE OF IDAHO, by and through the
IDAHO FISH AND GAME COMMISSION,
and the IDAHO DEPARTMENT OF FISH AND GAME:

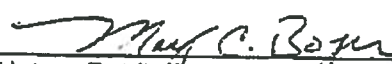


Virgil Moore
Secretary, Idaho Fish and Game Commission
Director, Idaho Department of Fish and Game

State of Idaho)
) SS.
County of)

On this 25th day of January, 2016 before me, a Notary Public in and for said State, personally appeared Virgil Moore, known or identified to me to be the person whose name is subscribed to the within instrument as the **Secretary of the Idaho Fish and Game Commission and Director of the Idaho Department of Fish and Game**, and acknowledged to me that he executed the same.





Notary Public for the State of Idaho
Residing at: Boise
My Commission Expires: My Commission Exp
August 31, 2017



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 20, 2018

THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #1101
SEATTLE WA 98101-2643

Re: Transfer No: 82108
Water Right No(s): 37-426B

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.

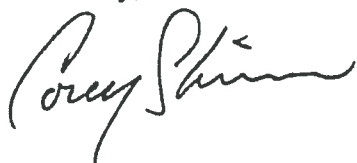
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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:

JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

WATER DISTRICT 37
KEVIN LAKEY
107 W 1ST
SHOSHONE ID 83352

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 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.: 82108
Water Right No(s): 37-426B**

**THE WILLOWS AT SILVER CREEK LLC
1301 4TH AVE #1101
SEATTLE WA 98101-2643**

**JAMES P SPECK
SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340**

**WATER DISTRICT 37
KEVIN LAKEY
107 W 1ST
SHOSHONE ID 83352**

via e-mail



**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: March 12, 2018
To: Transfer 82108 File
From: Bill Mills
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes moving the point of diversion (POD) for a 1.05 cfs Silver Creek irrigation right approximately 4.5 miles downstream to a location adjacent to the existing 28.0 acre place of use (POU). Proposed POD is located approximately 2.2 miles west and 1 mile north of Picabo.

A condition on the water right (F01) indicates this right has been delivered through the Gilham Ditch and the POD is currently located on Loving Creek. The water right source was decreed as Silver Creek and this transfer will move the POD downstream of the confluence of Silver and Loving Creeks. Processing this transfer will result in correctly describing the source as Silver Creek.

There is no overlap with other water rights at the current POU or proposed POD location. Proposed POD, current POD and POU are located in Water District 37, and watermaster comments were solicited.

- **Authority to File:** A copy of deeds, a water right quitclaim and an affidavit of correction were provided indicating the applicant's current ownership of the water right and place of use.
- **Water Right Validity:** Water right 37-426B was decreed in the SRBA on 9/24/2010. Recent aerial and satellite imagery indicate the place of use appears irrigated.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. Application is subject to public notice.
- **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 Agricultural Base of the Local Economy:**
None Anticipated.

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

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

March 7, 2018

RECEIVED

MAR 09 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION

Corey Skinner, P.E.
South Region Manager
Idaho Department of Water Resources
650 Addison Avenue West, Suite 500
Twin Falls, ID 83301

***Re: Assignment of Application for Transfer No. 82108
Picabo Livestock, Inc to The Willows at Silver Creek, LLC***

Dear Corey:

Enclosed please find the original and one (1) copy of the above-referenced Assignment as signed by the appropriate officers. Please process and receipt date-stamp the copy of the Assignment and return it to me in the enclosed self-addressed, postage-paid envelope. Also, kindly confirm with me that this completes all the items you require to finalize and approve the Application for Transfer. ✓ done
TF

If you have questions, please contact me. Thank you for your assistance.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation


James P. Speck

JPS:kdI

Encls.

cc: Mr. Greg Smith w/ Assignment
Derek J. O'Neill, Esq., w/Assignment

Maline, Denise

From: Skinner, Corey
Sent: Thursday, March 01, 2018 4:44 PM
To: Maline, Denise; Mills, William
Subject: FW: RE: water transfer

FYI...

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Thursday, March 01, 2018 4:37 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: FW: RE: water transfer

Corey,

FYI re. the signed original of the transfer assignment.

Jim

-----Original Message-----

From: Derrick O'Neill [mailto:doneill@idalaw.com]
Sent: Thursday, March 1, 2018 4:37 PM
To: James Speck
Subject: RE: RE: water transfer

Will do

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Thursday, March 01, 2018 4:34 PM
To: Derrick O'Neill <doneill@idalaw.com>
Cc: Greg Smith (greg@urbanvisions.com) <greg@urbanvisions.com>
Subject: RE: RE: water transfer

Derrick,

No protests were filed against the transfer application. IDWR needs the Assignment with Nick's original signature to complete the processing and approval. Please remind Nick to get it to me or, if he is going to Twin Falls, deliver it directly to Corey Skinner at IDWR. Thanks.

Jim

-----Original Message-----

From: James Speck
Sent: Tuesday, February 20, 2018 10:55 AM
To: 'Derrick O'Neill'

Thanks, Derrick.

From: Derrick O'Neill [mailto:doneill@idalaw.com]
Sent: Tuesday, February 20, 2018 10:40 AM
To: James Speck
Subject: RE: water transfer

I'll have Nick deliver or mail it to you

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Monday, February 19, 2018 3:56 PM
To: Derrick O'Neill <doneill@idalaw.com>
Subject: RE: water transfer

Derrick,

Thanks. Please mail me the original as I have to file it with IDWR together with the p.2 signed by my client. Thanks.

Jim

From: Derrick O'Neill [mailto:doneill@idalaw.com]
Sent: Monday, February 19, 2018 12:45 PM
To: James Speck
Subject: FW: water transfer

Here is Nick's portion of the agreement.
Derrick

Derrick J. O'Neill

Jones Gledhill Fuhrman Gourley, P.A.

225 North 9th St. Ste 820

Boise, Idaho 83701

doneill@idalaw.com <mailto:doneill@idalaw.com>

RECEIVED

FEB 20 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION

AFFIDAVIT of PUBLICATION

State of Idaho
County of Blaine

PAM MORRIS, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first

publication of said advertisement was on the 7th day of

February, 20 18, and the date of the last publication was on the 14th day of February, 20 18

Subscribed and sworn to before me this 14 day of Feb, 20 18.

Connie N. Johnson
NOTARY PUBLIC

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 7/10/2018

IDAHO MOUNTAIN EXPRESS

P.O. Box 1013

Ketchum, Idaho 83340

COST OF PUBLICATION

Number of Picas per Line 11.5Number of Lines in Notice 105Number of Insertions 2

Lines tabular at 9.0 cents/pica

105 Lines straight at \$96.60 8.0 cents/pica105 Subsequent lines at \$84.53 7.0 cents/picaTOTAL COST \$181.13

COPY OF NOTICE

Legal Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

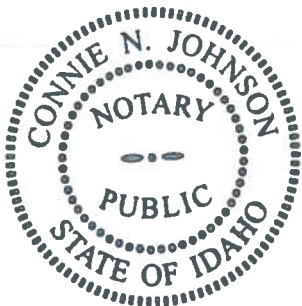
BILL TO

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 82093

LAKESIDE INDUSTRIES INC, PO BOX 479, BELLEVUE, ID 83313; has filed Application No. 82093 for changes to the following water rights within BLAINE County(s): Right No(s). 37-2747. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and the point of diversion (POD) for irrigation ground water right 37-2747 (1.06 cfs) which currently irrigates 56.0 acres located approximately 2.4 to 2.9 miles south and 0.3 to 0.5 mile east of the intersection of Main Street and Elm Street in Bellevue. The new 56.0 acre POU will be located approximately 5.8 to 6.1 miles south and 0.3 to 0.7 mile west of Bellevue. The current POD is located approximately 2.4 miles south and 0.5 mile east of Bellevue, while the proposed POD is an existing well located approximately 5.9 miles south and 0.4 mile west of Bellevue.

→
over

✓ OK PM 2/28/2018



**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 82094**

LAKESIDE INDUSTRIES INC, PO BOX 479, BELLEVUE, ID 83313; has filed Application No. 82094 for changes to the following water rights within BLAINE County(s): Right No(s). 37-8559. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and the point of diversion (POD) for irrigation ground water right 37-8559 (1.15 cfs) which currently irrigates 57.6 acres located approximately 5.8 to 6.1 miles south and 0.3 to 0.7 mile west of the intersection of Main Street and Elm Street in Bellevue. The new 57.6 acre POU will be located approximately 2.4 to 2.9 miles south and 0.3 to 0.5 mile east of Bellevue. The current POD is located approximately 5.9 miles south and 0.4 mile west of Bellevue, while the proposed POD is an existing well located approximately 2.4 miles south and 0.5 mile east of Bellevue.

**NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 82108**

PICABO LIVESTOCK CO, PO BOX 688, PICABO, ID 83348; has filed Application No. 82108 for changes to the following water rights within BLAINE County(s): Right No(s). 37-426B. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes moving the point of diversion (POD) for a 1.05 cfs Silver Creek irrigation right approximately 4.5 miles downstream to a location adjacent to the existing 28.0 acre place of use (POU). Proposed POD is located approximately 2.2 miles west and 1 mile north of Picabo.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. 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 **February 26, 2018**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

**PUBLISH
IDAHO MOUNTAIN EXPRESS
FEB. 7 & 14, 2018**

✓ OK AM 2/28/2018

Skinner, Corey

From: Skinner, Corey
Sent: Monday, February 05, 2018 10:26 AM
To: 'James Speck'
Cc: Greg Smith (greg@urbanvisions.com); Derrick O'Neill (doneill@idalaw.com); Mills, William; Maline, Denise
Subject: RE: RE: RE: Transfer involving right 37-426B

Jim,

Thanks for the update. We will need an Assignment of Application for Transfer from Picabo to The Willows. Here is a link to the form...

<https://idwr.idaho.gov/files/forms/assignment-of-application-for-transfer.pdf>

We are currently advertising the application. If you can get this completed and in to us in the next couple of weeks, there should be no delays in the processing of the application.

Corey

-----Original Message-----

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Monday, February 05, 2018 10:10 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Greg Smith (greg@urbanvisions.com) <greg@urbanvisions.com>; Derrick O'Neill (doneill@idalaw.com) <doneill@idalaw.com>
Subject: RE: RE: RE: Transfer involving right 37-426B

Corey,

Attached are copies of the recorded deeds conveying the remainder of this water right from Idaho Fish & Game to Picabo Livestock Company to my client, The Willows at Silver Creek, LLC. Do you need an assignment of application for transfer and another notice of change in water right ownership to put this entire water right in my client's name and complete the processing and approve the transfer in my client's name?

Thanks.

Jim

-----Original Message-----

From: James Speck
Sent: Saturday, January 20, 2018 3:43 PM
To: 'Skinner, Corey'
Cc: Greg Smith (greg@urbanvisions.com); Derrick O'Neill (doneill@idalaw.com)

Corey,

At this time we do not want to transfer the POD for the entire right unless and until IDFG conveys by quitclaim deed to Picabo Livestock Company all of its interest in this water right. We are now waiting for that signed deed. Thank you for your patience.

Jim

-----Original Message-----

From: Skinner, Corey

Sent: Friday, January 19, 2018 4:30 PM

To: James Speck

Jim,

Did you come up with a path forward on this? We are roughly at the 30 days that I gave you in my December 19th e-mail. The last e-mail from Mr. O'Neil seems to hint around at splitting the right and leaving a portion in the name of the IDF&G with the original diversion point listed for the IDF&G portion. If this is the direction you want to go, we need another \$75.00 and some indication (a cover letter would be fine) indicating that the intent is to split the right and update ownership on the split portion (correcting the check boxes on the top of the first page of the application that you already submitted).

Let me know how you want to proceed.

Thanks,

Corey

From: Derrick O'Neill [mailto:doneill@idalaw.com]

Sent: Tuesday, January 09, 2018 2:44 PM

To: jim@speckandaanestad.com; Skinner, Corey <Corey.Skinner@idwr.idaho.gov>

Cc: Nick Purdy <nick@purdyent.com>

Subject: FW: Transfer involving right 37-426B

Jim and Corey: From the correspondence below, it looks like you are waiting for a decision on how to transfer the water right.

If I understand it, we can split the right and transfer the pro-rata share appurtenant to Lot 1. We understand that this will leave a small portion with IF&G for now.

Please let me know when the transfer is amended to complete the split.

Thank you all

Derrick O'Neill

Derrick J. O'Neill

Jones Gledhill Fuhrman Gourley, P.A.

225 North 9th St. Ste 820

Boise, Idaho 83701

doneill@idalaw.com

208-331-1170

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, December 19, 2017 9:05 AM
To: Nick Purdy; Greg Smith (greg@urbanvisions.com)
Subject: FW: Transfer involving right 37-426B

Nick & Greg,

Please review the e-mail below regarding the place of use of the water right for Lot 1. Nick, was the intent to transfer the ENTIRE right to Picabo Livestock Company or just that portion appurtenant to Lot 1? If the former we just need a quitclaim deed from IDFG to PLC for the entire right & amend the transfer to put all of the water on Lot 1. If the right is to be split then we can amend the transfer accordingly and IDFG retains a small portion for irrigation of its adjacent parcel.

Call me if you have any questions.

Jim

Jim

From: Skinner, Corey [mailto:Corey.Skinner@idwr.idaho.gov]
Sent: Tuesday, December 19, 2017 8:47 AM
To: James Speck
Subject: Transfer involving right 37-426B

Jim,

As we discussed yesterday there appears to be an issue with the transfer application that you recently filed involving water right 37-426B. The transfer includes a deed conveying Lot 1 of Picabo Willows Subdivision to Picabo Land and Livestock Company (corrected to Picabo Livestock Company, Inc. via Affidavit of Correction). The deed describes land "with their appurtenances". Water right 37-426B includes land in the SWNE of Section 20 while Lot 1 of Picabo Willows Subdivision is located completely within the SENW of Section 20. The attached map shows the 37-426B place of use (outlined in blue) and the approximate location of the east boundary of Lot 1 of Picabo Willows Subdivision (green line). The $\frac{1}{4}$ $\frac{1}{4}$ line between the SENW and SWNE of Section 20 is also shown (yellow line).

It appears to me that there is about 1.5 acres of the 37-426B place of use (28 total acres) that is located outside of Lot 1 of Picabo Willows Subdivision. Based on the current deed, we could split right 37-426B proportionately (1.5 acres / 28 acres) which would result in 0.99 cfs being conveyed to Picabo Livestock Company. This would require another \$75.00 filing fee for the transfer (\$100.00 ownership change for split vs. \$25.00 already submitted). However, this would result in a small piece of the right still in the name of the IDF&G listing the original diversion point. I am not sure exactly what the intent of the IDF&G and Picabo Livestock Company transaction was, but they may need to correct things.

As currently filed, we cannot process the transfer application. I will hold the transfer for 30 days for the submittal of the additional fee, or an amended application &/or supporting documents. If nothing is received within 30 days, I will return the application to your office and issue a refund of the filing fee.

Give me a call if you want to discuss,

Corey