

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81885**

This is to certify that: **DOUBLE EAGLE PROPERTIES LLLP**
3173 N 4900 E
MURTAUGH, ID 83344

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>
45-14469	WR/DECREED	10/25/1948	0.290 cfs	97.3 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>
45-14469	NO	YES	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
45-14469	45-14469	0.290 cfs	97.3 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.290 cfs	97.3 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 20th day of October, 2017.



Southern Region Manager

Transfer No. 81885

WATER RIGHT NO. 45-14469
As Modified by Transfer No. 81885

In accordance with the approval of Transfer No. 81885, Water Right No. 45-14469 is now described as follows:

Right Holder: DOUBLE EAGLE PROPERTIES LLLP
 3173 N 4900 E
 MURTAUGH, ID 83344

Priority Date: 10/25/1948

Source: GROUND WATER

BENEFICIAL USE

COMMERCIAL
 STOCKWATER

From

1 /1
 1 /1

to
 to

To

12/31
 12/31

Diversion Rate

0.290 cfs
 0.290 cfs
 0.290 cfs

Diversion Volume

97.3 af
 97.3 af
 97.3 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L4 (NWNW)	Sec 6	Twp 12S Rge 20E	CASSIA County
GROUND WATER	L4 (NWNW)	Sec 6	Twp 12S Rge 20E	CASSIA County
GROUND WATER	SWNWSE	Sec 6	Twp 12S Rge 20E	CASSIA 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	
12S	20E	6									X	X							
												L 6							

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	
12S	20E	6									X	X							
												L 6							

CONDITIONS OF APPROVAL

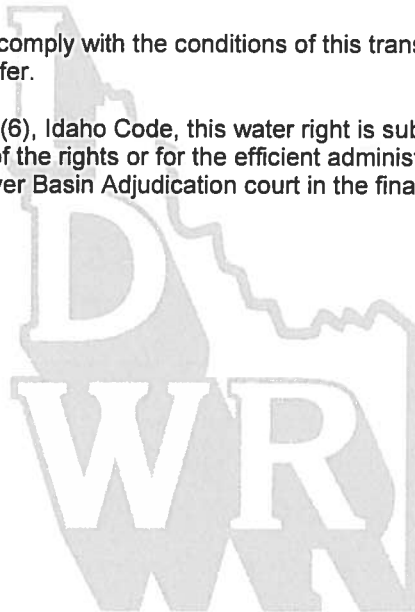
1. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 140.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.

Transfer No. 81885

WATER RIGHT NO. 45-14469
As Modified by Transfer No. 81885

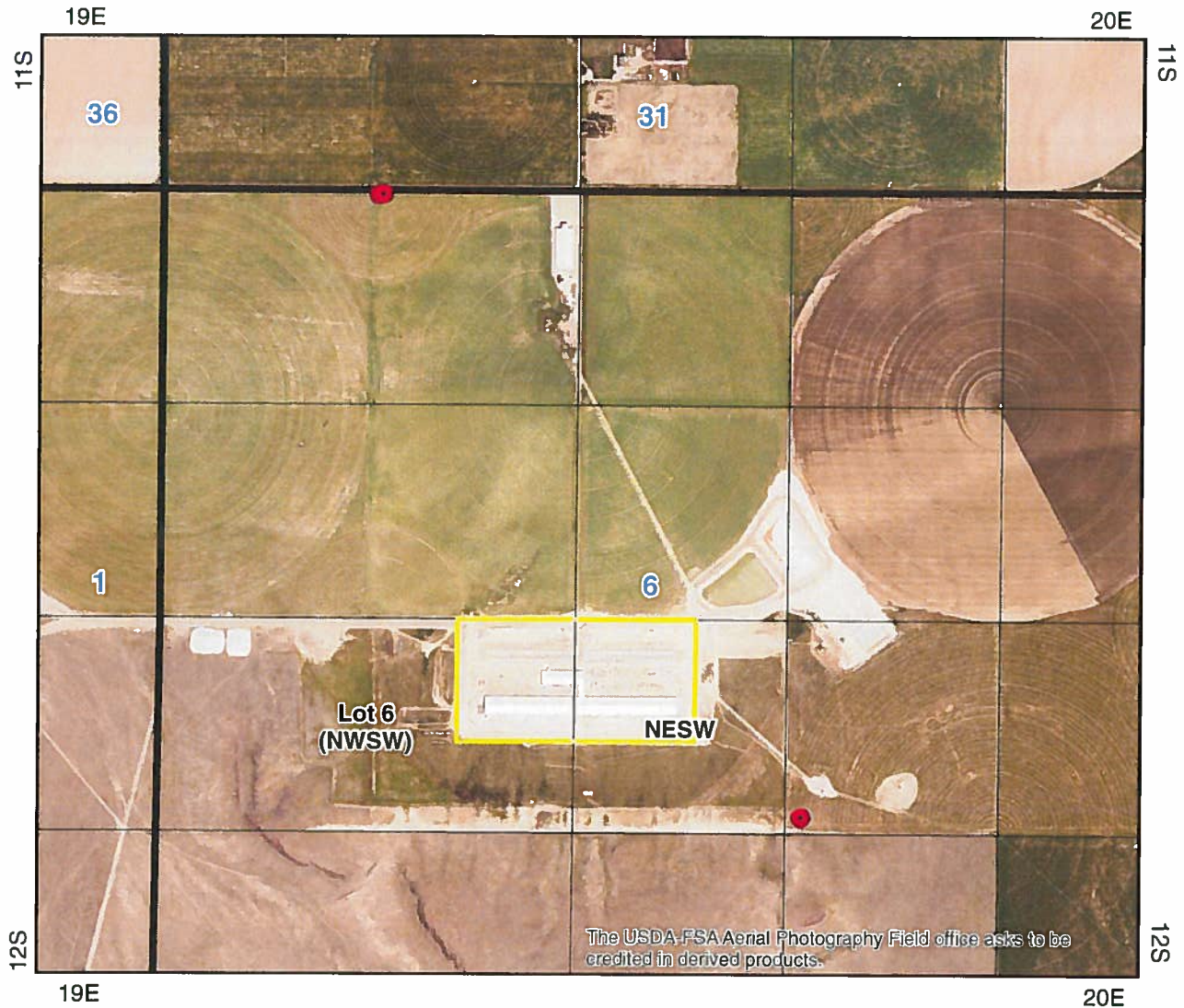
CONDITIONS OF APPROVAL

3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
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.
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 # 81885
45-14469

This map depicts the STOCKWATER & COMMERCIAL 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 0.125 0.25 0.5 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 23, 2017

DOUBLE EAGLE PROPERTIES LLLP
3173 N 4900 E
MURTAUGH ID 83344

Re: Transfer No: 81885
Water Right No(s): 45-14469

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:

BRIAN HIGGS
WATER DISTRICT 140
355 W 500 S
BURLEY ID 83318

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2017 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.: 81885
Water Right No(s): 45-14469**

**DOUBLE EAGLE PROPERTIES LLLP
3173 N 4900 E
MURTAUGH ID 83344**

**BRIAN HIGGS
WATER DISTRICT 140
355 W 500 S
BURLEY ID 83318**

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: October 18, 2017
To: Transfer 81885, Double Eagle Properties LLLP File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add a new point of diversion (POD) and correct the currently described location of another POD for ground water right 45-14469 (0.29 cfs) used at an existing CAFO facility. The new well and correctly described existing well are located approximately 5.2 miles south and 0.2 mile west of Murtaugh and will be used with another well listed as a POD on right 45-14469 to provide water to the CAFO facility.

The proposed changes are located within the Artesian City Critical Ground Water Area so the transfer will be advertised. In addition, the PODs are located within Water District 140, so watermaster comments will be solicited.

- **Authority to File:**
The Department's database indicates that water right 45-14469 is owned by the applicant, Double Eagle Properties, LLLP. Application was signed by Darrell Funk, who is the registered agent of Double Eagle Properties, LLLP. The right was recently quitclaimed to Double Eagle Properties, LLLP by Darrell M. and Patricia M. Funk. A copy of the quitclaim is included in the file, as well as a copy of the Annual Report Form for Double Eagle Properties, LLLP, which was filed with the Idaho Secretary of State's office.
- **Water Right Validity:**
Water right 45-14469 was decreed in June of 2010, and the transfer to bring in water for this dairy was approved in 2015. It is unclear if cattle have been placed in the dairy, but because of the recent transfer, forfeiture is unlikely.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The corrected POD is moving about 80 feet across the road from where it was described, and the new POD will be very close to that location.
- **Enlargement of Use:**
None anticipated. The application is to change and add PODs; no increase in volume will occur.
- **Local Public Interest:**
No issues anticipated. The transfer will be advertised.
- **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 of the Agricultural Base of the 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 53941

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
 SS
COUNTY OF TWIN FALLS)

On this 28 day of Sept in the year of 2017 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.

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

NOELLE R. SMITH
Notary Public
State of Idaho

PUBLISHED ON: 09/21/2017, 09/28/2017

TOTAL AD COST: 154.50
FILED ON: 9/28/2017

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

36-17116
HAGERMAN WINGS FARM LLC ✓
823 E 2700 S
HAGERMAN, ID 83332
Point of Diversion NESENE S15 T07S R13E GOODING County
Source UNNAMED STREAM Tributary SINKS
Use: DIVERSION TO STORAGE 01/01 to 12/31 2.5 CFS
Use: WILDLIFE 01/01 to 12/31 2.5 CFS
Use: WILDLIFE STORAGE 01/01 to 12/31 6.2 AF
Total Diversion: 2.5 CFS
Date Filed: 8/7/2017
Place Of Use: WILDLIFE STORAGE
T07S R13E S15 SENE
Application proposes diverting 2.5 cfs of water from unnamed stream for wildlife storage use in a lined pond located approximately 0.5 mile west of the City of Hagerman. Evaporative and seepage losses will be mitigated from an existing irrigation water right.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81885 ✓

DOUBLE EAGLE PROPERTIES LLLP, 3173 N 4900 E, MURTAUGH, ID 83344; has filed Application No. 81885 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14469. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a new point of diversion (POD) and correct the currently described location of another POD for ground water right 45-14469 (0.29 cfs) used at an existing CAFO facility. The new well and correctly described existing well are located approximately 5.2 miles south and 0.2 mile west of Murtaugh and will be used with another well listed as a POD on right 45-14469 to provide water to the CAFO facility.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. For additional information on new permits, please see www.idwr.idaho.gov/WaterManagement/WaterRights/#New_Listings. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. 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 October 10, 2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PUBLISH: September 21 and 28, 2017

RECEIVED

OCT 02 2017

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ OK DM 10/5/2017