

Amended

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STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT TRANSFER NO. 81188

This is to certify that: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

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>
57-1064	WR/DECREED	9/21/1911	0.800 cfs	N/A	N/A	40.0	REYNOLDS CREEK
57-1065	WR/DECREED	9/21/1911	0.160 cfs	N/A	N/A	35.0	REYNOLDS CREEK
57-253	WR/DECREED	6/1/1911	0.180 cfs	N/A	N/A	35.0	REYNOLDS CREEK
57-268	WR/DECREED	6/1/1883	0.360 cfs	N/A	N/A	35.0	REYNOLDS 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>
57-1064	NO	NO	NO	YES	NO	NO
57-1065	NO	NO	NO	YES	NO	NO
57-253	NO	NO	NO	YES	NO	NO
57-268	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
57-1064	57-1064	0.800 cfs	N/A	N/A	40.0	N/A	N/A	N/A	N/A	N/A
57-1065	57-1065	0.160 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
57-253	57-253	0.180 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
57-268	57-268	0.360 cfs	N/A	N/A	35.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.500 cfs	N/A	N/A	75.0		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 23rd day of October, 2017.


Chief, Water Allocation Bureau

Transfer No. 81188

SUPPORT DATA

IN FILE # 57-253

Amended

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WATER RIGHT NO. 57-253

As Modified by Transfer No. 81188

In accordance with the approval of Transfer No. 81188, Water Right No. 57-253 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 6/1/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.180 cfs

0.180 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OUYHEE County
Sec 24 Twp 03S Rge 04W OUYHEE 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-253, 57-268 and 57-1065 when combined shall not exceed the irrigation of 35 acres.
4. 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 diversion(s).
5. 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. 57R.

Transfer No. 81188

Amended

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WATER RIGHT NO. 57-253

As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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.
9. Diverting water before or after the period of use under this right is allowed provided:
 - A. The waters so diverted are applied to a beneficial use, and
 - B. The existing rights and future appropriations are first satisfied.

Amended

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WATER RIGHT NO. 57-268

As Modified by Transfer No. 81188

In accordance with the approval of Transfer No. 81188, Water Right No. 57-268 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 6/1/1883

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.360 cfs

0.360 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W Owyhee County
Sec 24 Twp 03S Rge 04W Owyhee 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-253, 57-268 and 57-1065 when combined shall not exceed the irrigation of 35 acres.
4. 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 diversion(s).
5. 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. 57R.

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Amended

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WATER RIGHT NO. 57-268
As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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.
9. Diverting water before or after the period of use under this right is allowed provided:
 - A. The waters so diverted are applied to a beneficial use, and
 - B. The existing rights and future appropriations are first satisfied.

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WATER RIGHT NO. 57-1064

As Modified by Transfer No. 81188

In accordance with the approval of Transfer No. 81188, Water Right No. 57-1064 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 9/21/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

3/15

To

to 11/15

Diversion Rate

0.800 cfs

0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK
REYNOLDS CREEK

NESE
SWNE

Sec 12 Twp 03S Rge 04W OWYHEE County
Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25															30.0		30.0
02S	04W	36					2.0	6.0	2.0										10.0

POU Total Acres: 40.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. 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 diversion(s).
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. 57R.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 81188

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WATER RIGHT NO. 57-1064

As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
8. Diverting water before or after the period of use under this right is allowed provided:
 - A. The waters so diverted are applied to a beneficial use, and
 - B. The existing rights and future appropriations are first satisfied.

Amended

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WATER RIGHT NO. 57-1065

As Modified by Transfer No. 81188

In accordance with the approval of Transfer No. 81188, Water Right No. 57-1065 is now described as follows:

Right Holder: SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON, ID 83641

Priority Date: 9/21/1911

Source: REYNOLDS CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From 3/15 **To** 11/15

Diversion Rate
0.160 cfs
0.160 cfs

LOCATION OF POINT(S) OF DIVERSION

REYNOLDS CREEK NESE Sec 12 Twp 03S Rge 04W OWYHEE County
REYNOLDS CREEK SWNE Sec 24 Twp 03S Rge 04W OWYHEE 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	
02S	04W	25												8.0			3.0		11.0
02S	04W	36					12.0	1.0	11.0										24.0

POU Total Acres: 35.0

CONDITIONS OF APPROVAL

1. 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.
2. Rights 57-253, 57-261, 57-268, 57-1064, 57-1065, 57-1067, 57-2170 and 57-2187 when combined shall not exceed a total diversion rate of 3.78 cfs and the irrigation of 189 acres.
3. Rights 57-268, 57-1065, and 57-263 when combined shall not exceed the irrigation of 35 acres.
4. 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 diversion(s).
5. 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. 57R.

Transfer No. 81188

Amended

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WATER RIGHT NO. 57-1065

As Modified by Transfer No. 81188

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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.
9. Diverting water before or after the period of use under this right is allowed provided:
 - A. The waters so diverted are applied to a beneficial use, and
 - B. The existing rights and future appropriations are first satisfied.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 10, 2017

SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON ID 83641

Re: Transfer No: 81188
Water Right No(s): 57-253, 57-268, 57-1064, 57-1065
Amended Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved amended 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 amended transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee.

Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

 Rachel Neely for.

Nick Miller
Regional Manager

Enclosure

CC:

ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617

CONNIE M. BRANDAU
WATERMASTER OF DISTRICT 57R
9902 WILSON CEMETERY LN
WILSON ID 83641

JAMES BROWITT
LAURA A SCHROEDER
SCHROEDER LAW OFFICES PC
1915 NE CESAR E CHAVEZ BLVD
PORTLAND OR 97212

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Amended Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 81188

Water Right No(s): 57-253, 57-268, 57-1064, 57-1065

**SEVEN HIGH RANCH INC
C/O JERRY L HOAGLAND
13528 REYNOLDS CREEK RD
WILSON ID 83641**

**ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617**

**CONNIE M. BRANDAU
9902 WILSON CEMETERY LN
WILSON ID 83641**

**JAMES BROWITT
LAURA A SCHROEDER
SCHROEDER LAW OFFICES PC
1915 NE CESAR E CHAVEZ BLVD
PORTLAND OR 97212**



**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

DATE: 10/16/2017

TO: 57-253, 57-268, 57-1064, 57-1065

FROM: Phill Hummer

RE: Amended Approval

On August 10, 2017 IDWR approved application for transfer no. 81188 in the name of Seven High Ranch Inc. Then on September 21, 2017 Seven High Ranch Inc. filed a petition for judicial review to add the "excess water" condition back on the 4 water rights involved with the approved transfer. The parties filed a stipulated agreement for remand on October 2, 2017 that stipulated the matter should be remanded back to IDWR. Staff at the western region of IDWR drafted an amended approval that puts the "excess water" condition back on the water rights.