

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81646

This is to certify that: IAN BYRNES
9770 FARNER RD
NAMPA, ID 83686

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>
63-34377	WR/DECREED	4/13/1967	0.020 cfs	8.4 af	N/A	2.2	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>
63-34377	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>
63-34377	63-34377	0.020 cfs	8.4 af	N/A	2.2	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.020 cfs	8.4 af	N/A	2.2		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 15th day of August, 2017.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34377
As Modified by Transfer No. 81646

In accordance with the approval of Transfer No. 81646, Water Right No. 63-34377 is now described as follows:

Right Holder: IAN BYRNES
 9770 FARNER RD
 NAMPA, ID 83686

Priority Date: 4/13/1967

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.020 cfs	8.4 af
			0.020 cfs	8.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNW Sec 15 Twp 02N Rge 03W CANYON 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	
02N	03W	15						2.2											2.2

POU Total Acres: 2.2

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 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
3. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 3/24/2009.
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. 81646

WATER RIGHT NO. 63-34377
As Modified by Transfer No. 81646

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 No. 81646

Water Right No. 63-34377

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.



- Township/Range
- Sections
- QQ
- Place of Use Boundary
- Point of Diversion

0 0.05 0.1 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAY 05 2017
WATER RESOURCES
WESTERN REGION

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

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

Check all that apply:

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

1. **APPLICANT(S)** Ian Byrnes Phone 208-936-5853
2. **MAILING ADDRESS** 9770 Farner Rd City Nampa
State ID Zip 83686 Email ibbyrnes@gmail.com

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

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

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☒ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 63-32447

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

4. **TOTAL AMOUNT OF WATER** transferred is 0.16 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

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

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

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
yes			NW	NW	15	02N	03W	Canyon	Groundwater	
no			NW	NW	15	02N	03W	Canyon	Groundwater	

81646

6. GENERAL INFORMATION

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

Well with submerged pump to handline to irrigate. Measuring device and controlling works not currently needed.

The POD is an existing well, already associated with right nos. 63-32137 & 63-32448.

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

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

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

Yes No

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

If yes, describe:

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

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

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

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

Ian Byrnes
Signature of applicant or authorized agent

IAN BYRNES
Print name and title if applicable

MAY 5, 2017
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

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

FOR DEPARTMENT USE ONLY

Transfer includes 8 pages of attachments.

Received by [Signature]

Date 5/5/17

Fee paid \$300 Date 5/5/17

Received by [Signature]

Receipt # WD45247

Preliminary review by CP

Date 5-12-17

Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☒

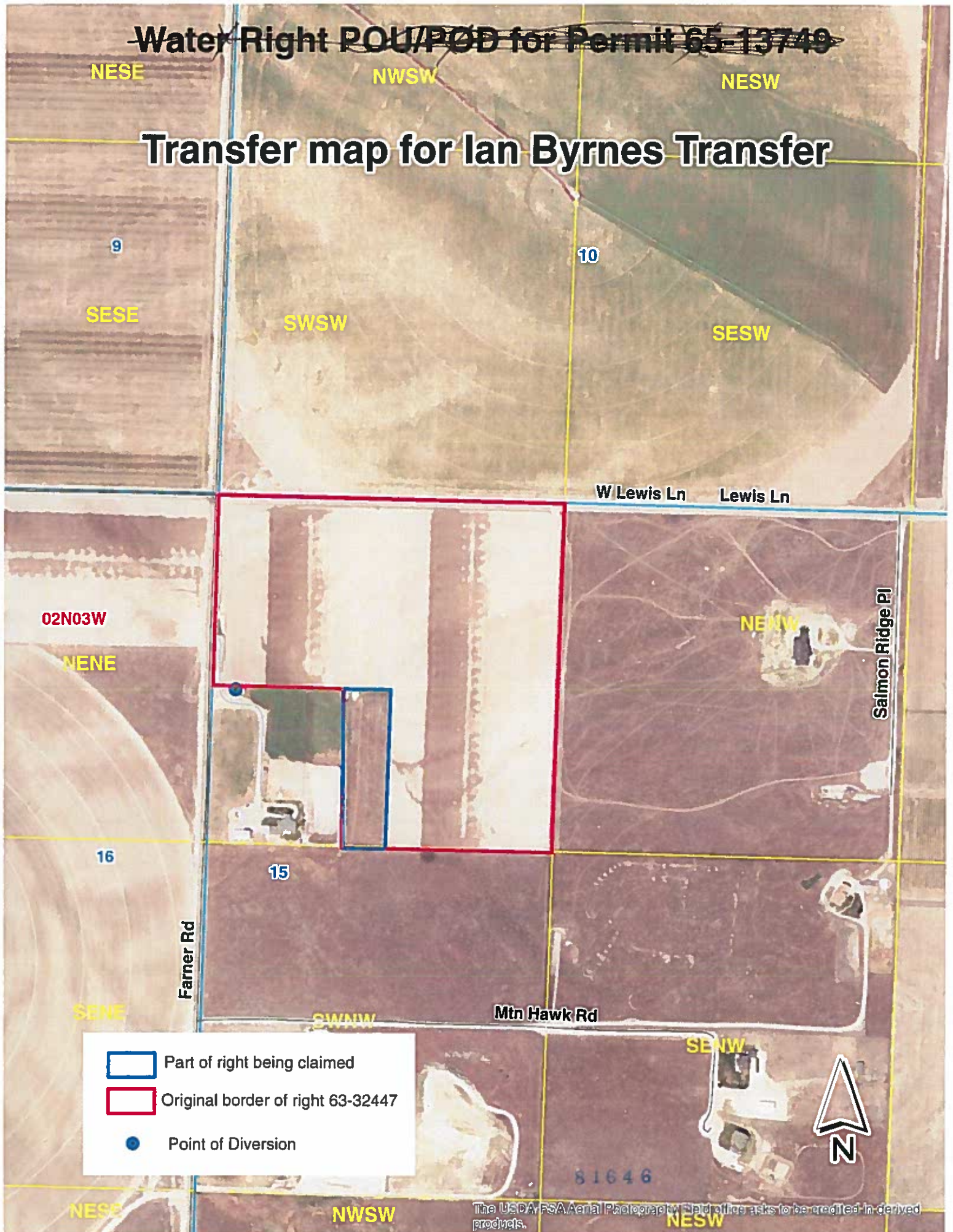
Name on W-9 N/A

W-9 forwarded to fiscal? Yes ☐ No ☒

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

~~Water Right POU/POD for Permit 65-13749~~

Transfer map for Ian Byrnes Transfer



5/5/2017

DEED OF TRUST

THIS DEED OF TRUST, made this day of March 30, 2015 BETWEEN Ian Byrnes and Levi Byrnes, Husband and wife herein called GRANTOR, whose address is 9770 Farner Rd Nampa ID 83686 and TITLEONE, an Idaho Corporation, herein called TRUSTEE, and Michael Mortimer, herein called BENEFICIARY, whose address is 426 N Edgewood Lane Eagle ID 83616.

WITNESSETH: That Grantor does hereby irrevocably GRANT, BARGAIN, SELL AND CONVEY TO THE TRUSTEE IN TRUST WITH POWER OF SALE, that property in the county of Canyon, State of Idaho, described as follows and containing not more than eighty acres:

Attached Exhibit A

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority hereafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the purpose of securing payment of the indebtedness evidenced by a promissory note, of even date herewith, executed by Grantor in the sum of \$3500.00, with final payment due: October 1, 2015 and to secure payment of all such further sums as may hereafter be loaned or advanced by the Beneficiary herein to the Grantor herein, or any or either of them, while record owner of present interest, for any purpose, and of any notes, drafts or other instruments representing such further loans, advances or expenditures together with interest on all such sums at the rate therein provided. Provided, however, that the making of such further loans, advances or expenditures shall be optional with the Beneficiary and provided further, that it is the express intention of the parties to this Deed of Trust that it shall stand as continuing security until paid for all such advances together with interest thereon.

A. To protect the security of this Deed of Trust, Grantor agrees:

1. To keep said property in good condition and repair, not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof, not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
2. To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under and fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order and Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.
4. To pay, at least ten days before delinquency all taxes and assessments affecting said property, when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses, of this Trust. In Addition to the payments due in accordance with the terms of the note hereby secured the Grantor shall at the option, and on demand of the Beneficiary, pay each month 1/12 of the estimated annual taxes, assessments, insurance premiums, maintenance and other charges upon the property, nevertheless in trust for Grantor's use and benefit and for the payment by Beneficiary of any such items when due. Grantor's failure to pay shall constitute a default under this Trust.
5. To pay immediately and without demand all sums expended by Beneficiary of Trustee pursuant to the provisions hereof, with interest from date of expenditure at the rate of interest specified in the above-described promissory note.
6. Should Grantor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligations hereof, may; make or do the same in such manner and such an extent as either may deem necessary

to protect this security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, or in enforcing this Deed of Trust by judicial foreclosure, pay necessary expenses, employ counsel and pay his reasonable fees.

B. It is mutually agreed that:

1. Any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.
3. At any time or from time to time, without liability, therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: Reconvey all or any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.
4. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention upon payment of its fees, Trustee shall reconvey without warranty, the property then held hereunder. The Grantee in such reconveyance may be described as 'the person or persons legally entitled thereto.
5. As additional security, Grantor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect rents, issues and profits of said property, reserving unto Grantor the right, prior to any default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon and indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
6. Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In the event of default, Beneficiary shall execute or cause the Trustee to execute a written notice of such default and of his election to cause to be sold the herein described property to satisfy the obligations hereof, and shall cause such notice to be recorded in the office of the recorder of each county wherein said real property or some part thereof is situated. Notice of sale having been given as then required by law, and not less than the time then required by law having elapsed, Trustee, without demand on Grantor, shall sell property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty expressed or implied. The recitals in such Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Grantor, Trustee, or Beneficiary, may purchase at such sale. After deducting such costs, fees and expenses, of Trustee and of this Trust, including cost of evidence of title and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof not then repaid, with accrued interest at the rate specified in the above described promissory note; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.
7. This Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Deed, whenever the

context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

8. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee.
9. In the event of dissolution or resignation of the Trustee, the Beneficiary may substitute a trustee or trustees to execute the trust hereby created and when any such substitution has been filed for record in the office of the Recorder of the county in which the property herein described is situated, it shall be conclusive evidence of the appointment of such trustee or trustees, and such new trustee or trustees shall succeed to all of the powers and duties of the trustee or trustees named herein.

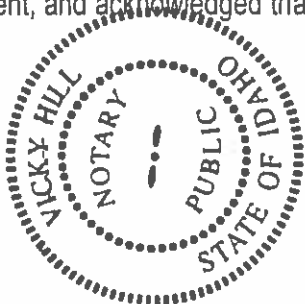
Request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale hereunder be mailed to the Grantor at his address hereinbefore set forth.


GRANTOR: Ian BYRNES


GRANTOR: Levi BYRNES

State of Idaho)
County of Canyon) S.S.

On this 1 day of April, in the year of 2015, before me
Vicky Hill, personally appeared Ian Byrnes, proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to the
within instrument, and acknowledged that he (she)(they) executed the same.




Notary Public
My Commission Expires on _____
Residing at: Meridian, ID
Commission Expires: 8/2/18

State of Idaho)
County of Canyon) S.S.

On this 2 day of April, in the year of 2015, before me
Vicky Hill, personally appeared Levi Byrnes, proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to the
within instrument, and acknowledged that he (she)(they) executed the same.




Notary Public
My Commission Expires on _____
Residing at: Meridian, ID
Commission Expires: 8/2/18

March 10, 2015

**DESCRIPTION FOR
EXCHANGE PARCEL**

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

Commencing at a 5/8" iron pin marking N1/16 corner of said Section 15;

thence along the West boundary line of said Section 15 North 00°05'08" East, 600.00 feet to a 5/8" iron pin marking the **REAL POINT OF BEGINNING**;

thence continuing along said West boundary line North 00°05'08" East, 199.14 feet;

thence leaving said West boundary line South 88°01'47" East, 49.52 feet;

thence South 35°54'56" East, 15.05 feet;

thence South 01°26'01" West, 129.76 feet;

thence South 22°24'41" East, 59.33 feet;

thence South 89°30'10" West, 78.00 feet to the **REAL POINT OF BEGINNING**, containing 11,752 square feet, more or less.

ALSO:

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

Commencing at a 5/8" iron pin marking N1/16 corner of said Section 15;

thence along the South boundary line of the NW1/4 of the NW1/4 of said Section 15 North 89°30'10" East, 542.00 feet to the **REAL POINT OF BEGINNING**;

thence leaving said South boundary line North 00°05'08" East, 600.00 feet;

thence North 89°30'10" East, 160.00 feet;

thence South 00°05'08" West, 600.00 feet to a point on the South boundary line of the NW1/4 of the NW1/4 of said Section 15;

thence along said South boundary line South 89°30'10" West, 160.00 feet to the **REAL POINT OF BEGINNING**, containing 2.20 acres, more or less.



March 10, 2015

**DESCRIPTION FOR
PARCEL A
BYRNES-FARNER ROAD PROPERTY**

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

Commencing at a 5/8" iron pin marking N1/16 corner of said Section 15;

thence along the West boundary line of said Section 15 North 00°05'08" East, 799.14 feet to a 5/8" iron pin marking the **REAL POINT OF BEGINNING**;

thence continuing along said West boundary line North 00°05'08" East, 528.12 feet to a 1/2" iron pin marking the NW corner of said Section 15;

thence along the North boundary line of said Section 15 North 89°32'35" East, 1322.60 feet to a 5/8" iron pin marking the W1/16 corner of said Section 15;

thence along the East boundary line of the NW1/4 of the NW1/4 of said Section 15 South 00°02'38" West, 1326.32 feet to a 5/8" iron pin marking the NW1/16 corner of said Section 15;

thence along the South boundary line of the NW1/4 of the NW1/4 of said Section 15 South 89°30'10" West, 621.58 feet to a 5/8" iron pin;

thence leaving said South boundary line North 00°05'08" East, 600.00 feet to a 5/8" iron pin;

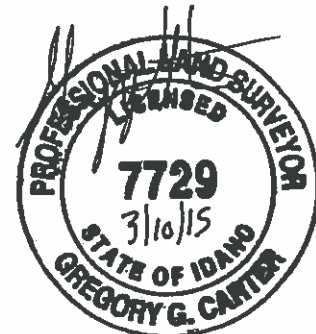
thence South 89°30'10" West, 624.00 feet to a 5/8" iron pin;

thence North 22°24'41" West, 59.33 feet to a 5/8" iron pin;

thence North 01°26'01" East, 129.76 feet to a 5/8" iron pin;

thence North 35°54'56" West, 15.05 feet to a 5/8" iron pin;

thence North 88°01'47" West, 49.52 feet to the **REAL POINT OF BEGINNING**, containing 30.36 acres, more or less.



March 10, 2015

**DESCRIPTION FOR
PARCEL B
BYRNES-FARNER ROAD PROPERTY**

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

BEGINNING at a 5/8" iron pin marking N1/16 corner of said Section 15;

thence along the West boundary line of said Section 15 North 00°05'08" East, 799.14 feet to a 5/8" iron pin;

thence leaving said West boundary line South 88°01'47" East, 49.52 feet to a 5/8" iron pin;

thence South 35°54'56" East, 15.05 feet to a 5/8" iron pin;

thence South 01°26'01" West, 129.76 feet to a 5/8" iron pin;

thence South 22°24'41" East, 59.33 feet to a 5/8" iron pin;

thence North 89°30'10" East, 624.00 feet to a 5/8" iron pin;

thence South 00°05'08" West, 600.00 feet to a 5/8" iron pin on the South boundary line of the NW1/4 of the NW1/4 of said Section 15;

thence along said South boundary line South 89°30'10" West, 702.00 feet to the **POINT OF BEGINNING**, containing 9.94 acres, more or less.



UNOFFICIAL COPY



RECEIVED

MAY 26 2014

WATER RESOURCES
WESTERN REGION

2014-008036

RECORDED

03/05/2014 04:31 PM

CHRIS YAMAMOTO

CANYON COUNTY RECORDER

Pgs=4 MBROWN

\$19.00

TYPE: DEED

FIRST AMERICAN TITLE AND ESCROW

ELECTRONICALLY RECORDED

Canyon County Recorder's Office Cover Page

UNOFFICIAL COPY
* *
UNOFFICIAL COPY

81646

*this instrument is being re-recorded
to add the grantee's address

AFTER RECORDING MAIL TO:

Jabenosh, LLC

2014-007972

RECORDED

03/05/2014 02:54 PM

CHRIS YAMAMOTO
CANYON COUNTY RECORDER

Pgs=2 JCRANE \$13.00
TYPE: DEED
FIRST AMERICAN TITLE AND ESCROW
ELECTRONICALLY RECORDED

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT

WARRANTY DEED

File No.: 4106-2213731 (PJN)

Date: March 03, 2014

For Value Received, **Arnold J. Van Berkel, a married man as his sole and separate property**, hereinafter referred to as Grantor, does hereby grant, bargain, sell and convey unto **Jabenosh, LLC**, hereinafter referred to as Grantee, whose current address is *, the following described premises, situated in **Canyon County, Idaho**, to wit:

*408 S. Eagle Rd., Ste.103, Eagle, ID 83616

LEGAL DESCRIPTION: Real property in the County of Canyon, State of Idaho, described as follows:

The Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM the South 600 feet of the West 370 feet of the Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

ALSO EXCEPTING THEREFROM:

A parcel of land located in the Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho more particularly described as follows:

COMMENCING at a 5/8 inch iron pin marking the North 1/16 corner of said Section 15; thence along the West boundary line of said Section 15 North 00° 05' 08" East 600.00 feet to a 5/8 inch iron pin; thence leaving said West boundary line

North 89° 30' 10" East 370.00 feet to the **REAL POINT OF BEGINNING**; thence North 89° 30' 10" East 172.00 feet to a 5/8 inch iron pin; thence

South 00° 05' 08" West 600.00 feet to a 5/8 inch iron pin on the South boundary line of the Northwest Quarter of the Northwest Quarter of said Section 15; thence along said South boundary line

South 89° 30' 10" West 172.00 feet; thence leaving said South boundary line North 00° 05' 08" East 600.00 feet to the **REAL POINT OF BEGINNING**.

APN: 30124014 0

AFTER RECORDING MAIL TO:

Jabenosh, LLC

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT

WARRANTY DEED

File No.: 4106-2213731 (PJN)

Date: March 03, 2014

For Value Received, **Arnold J. Van Berkel, a married man as his sole and separate property**, hereinafter referred to as Grantor, does hereby grant, bargain, sell and convey unto **Jabenosh, LLC**, hereinafter referred to as Grantee, whose current address is , , the following described premises, situated in **Canyon County, Idaho**, to wit:

LEGAL DESCRIPTION: Real property in the County of Canyon, State of Idaho, described as follows:

The Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM the South 600 feet of the West 370 feet of the Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West of the Boise Meridian, Canyon County, Idaho.

ALSO EXCEPTING THEREFROM:

A parcel of land located in the Northwest Quarter of the Northwest Quarter of Section 15, Township 2 North, Range 3 West, Boise Meridian, Canyon County, Idaho more particularly described as follows:

COMMENCING at a 5/8 inch iron pin marking the North 1/16 corner of said Section 15; thence along the West boundary line of said Section 15 North 00° 05' 08" East 600.00 feet to a 5/8 inch iron pin; thence leaving said West boundary line North 89° 30' 10" East 370.00 feet to the REAL POINT OF BEGINNING; thence North 89° 30' 10" East 172.00 feet to a 5/8 inch iron pin; thence South 00° 05' 08" West 600.00 feet to a 5/8 inch iron pin on the South boundary line of the Northwest Quarter of the Northwest Quarter of said Section 15; thence along said South boundary line South 89° 30' 10" West 172.00 feet; thence leaving said South boundary line North 00° 05' 08" East 600.00 feet to the REAL POINT OF BEGINNING.

APN: 30124014 0

APN: 30124014 0

Warranty Deed
- continued

File No.: 4106-2213731 (PJN)

Date: 03/03/2014

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

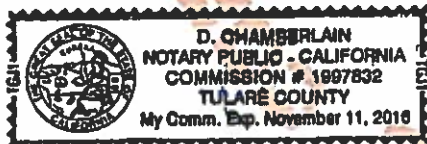


 Arnold J. Van Berkel

STATE OF Idaho)
)
 COUNTY OF Ada)

On this 3rd day of **March, 2014**, before me, a Notary Public in and for said State, personally appeared **Arnold J. Van Berkel**, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




 Notary Public for the State of Idaho **CALIFORNIA**
 Residing at: Meridian, ID **VISALIA, CALIFORNIA**
 My Commission Expires: **11-11-18**

RECEIVED

MAY 26 2017

ACCOMMODATION

QUITCLAIM DEED

WATER RESOURCES
WESTERN REGION

FOR VALUE RECEIVED, JABENOSH, LLC, An Idaho Limited Liability Company
does hereby convey, release, remise and forever quit claim unto

IAN BYRNES , A married man

whose current address is: 9770 FARNER RD NAMPA ID 83686

the following described premises:

Legal Description

ATTACHED AS EXHIBIT A

2015-011249	
RECORDED	
04/01/2015 12:27 PM	
CHRIS YAMAMOTO	
CANYON COUNTY RECORDER	
Pgs=2 BJBROWN	\$13.00
TYPE DEED	
TITLEONE BOISE	
ELECTRONICALLY RECORDED	

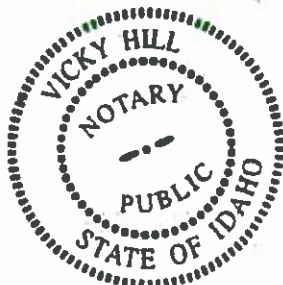
TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

Date: 3.30.15

[Signature] MGR OF JABENOSH.

STATE OF Idaho)
County of Canyon)

On this 30 day of March, 2015, before me, the undersigned, a Notary Public in and for said State,
personally appeared Michael A. Mortimer, known or identified to me to
be a Manager of the limited liability company that executed the
within instrument and acknowledged to me that _____ executed the same for and on behalf of said limited liability
company and that such limited liability company executed it.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this
certificate first above written.



[Signature]
Notary Public for the State of _____
Residing at: _____
My Commission Expires: Residing at: Meridian, ID
Commission Expires: 8/2/18

81646

EXHIBIT A

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

Commencing at a 5/8" iron pin marking N1/16 corner of said Section 15;

thence along the West boundary line of said Section 15 North 00°05'08" East, 600.00 feet to a 5/8" iron pin marking the **REAL POINT OF BEGINNING**;

thence continuing along said West boundary line North 00°05'08" East, 199.14 feet;

thence leaving said West boundary line South 88°01'47" East, 49.52 feet;

thence South 35°54'56" East, 15.05 feet;

thence South 01°26'01" West, 129.76 feet;

thence South 22°24'41" East, 59.33 feet;

thence South 89°30'10" West, 78.00 feet to the **REAL POINT OF BEGINNING**, containing 11,752 square feet, more or less.

ALSO:

A parcel of land located in the NW1/4 of the NW1/4 of Section 15, T.2N., R.3W., B.M., Canyon County, Idaho more particularly described as follows:

Commencing at a 5/8" iron pin marking N1/16 corner of said Section 15;

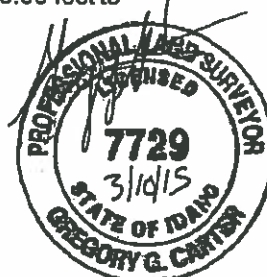
thence along the South boundary line of the NW1/4 of the NW1/4 of said Section 15 North 89°30'10" East, 542.00 feet to the **REAL POINT OF BEGINNING**;

thence leaving said South boundary line North 00°05'08" East, 600.00 feet;

thence North 89°30'10" East, 160.00 feet;

thence South 00°05'08" West, 600.00 feet to a point on the South boundary line of the NW1/4 of the NW1/4 of said Section 15;

thence along said South boundary line South 89°30'10" West, 160.00 feet to the **REAL POINT OF BEGINNING**, containing 2.20 acres, more or less.



81646



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 15, 2017

IAN BYRNES
9770 FARNER RD
NAMPA ID 83686

Re: Transfer No: 81646
Water Right No(s): 63-34377

Transfer Approval Notice

Dear Water Right Holder:

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) 334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Neely For". The signature is written in a cursive, flowing style.

Nick Miller
Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 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.: 81646
Water Right No(s): 63-34377

IAN BYRNES
9770 FARNER RD
NAMPA ID 83686



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.



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

May 30, 2017

IAN BYRNES
9770 FARNER RD
NAMPA ID 83686

Re: Water Right Transfer Application No. 81646 and Well Drilling Fee Upgrade

Dear Applicant:

Your recent water right transfer application proposes ground water use from a well. All wells drilled in Idaho after June 30, 1987, require well drilling permits. A well might need a water right along with the drilling permit, depending on the intended use of the well.

According to the records of Idaho Department of Water Resources (IDWR), your well was drilled in 1998 under a \$75 domestic well drilling permit. A \$75 drilling permit covers a well that does not require water right approval from IDWR. This is typically a single-family domestic well.

Proposed use from your well does require water right approval, and your water right application seeks that approval. The well drilling fee for a well requiring a water right is \$200 instead of \$75. Per Well Construction Standards Rules (IDAPA 37.03.09.045.05.b), IDWR must collect the unpaid balance of \$125 for a well drilled under those circumstances.

Please remit \$125 to upgrade your well drilling permit within the next thirty days to facilitate processing of your water right application.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cody Parker', is written over the word 'Sincerely,'.

Cody Parker
Water Resource Agent
IDWR Western Region

MEMORANDUM

TO: Transfer No. 81646 File
FROM: Cody Parker
DATE: May 18, 2017
RE: Evaluation of Sufficiency of Information Submitted

The applicant claimed ownership of 2.2 acres of irrigation from water right no. 63-32447. The change in ownership was completed prior to transfer processing, so the transfer data entry reflects the number for the split-portion (63-34377). The purpose of the transfer is to change the point of diversion for right 63-34377 from the existing POD, to a well located on the applicant's property. Water will be used at the current place of use in the NWNW of Sec. 15, Twp 02 North, Rge 03 West, Boise Meridian. The place of use is generally located southeast of the intersection of Farner Rd. and Lewis Ln., approximately 6.6 miles southwest of Nampa, Idaho.

Summary of Information Submitted

Authority to File:

Along with the transfer application, the applicant submitted a Deed of Trust as proof of conveyance of a portion of the land appurtenant to right no. 63-32447. Per AP Records Memo No. 9, this Deed was not sufficient for proving Mr. Byrnes ownership of the land. I spoke with Mr. Byrnes over the phone and requested a different conveyance document. On May 26, 2017, Mr. Byrnes submitted a quitclaim deed for the property. The quitclaim deed establishes that Jabenosh LLC has conveyed their interest in this property to Mr. Byrnes and gives a description of the land. However, the quitclaim deed does not establish whether or not Jabenosh LLC owned the property. I contacted the Canyon County Assessor's office to request a chain of title. I was provided an unofficial copy of the warranty deed establishing Jabenosh LLC as the previous owners of the property. This warranty deed, in combination with the quitclaim deed, verifies Mr. Byrnes as the owner of the property and confirms his right to the split portion of water right no. 63-32447, which is now referred to as right no. 63-34377. The completed change in ownership confirms the applicant's authority to file this transfer.

At the time of the ownership change, the land had been divided and conveyed to Ian Byrnes and the Beranna Dairy. However, the full water right was in the name of the Beranna Dairy. I sent an acknowledgment letter to the Beranna Dairy once I received the above-mentioned warranty deed to let them know that Mr. Byrnes has claimed his portion of the original right.

Water Right Validity:

Right 63-32447 authorized the diversion of 0.26 cfs from groundwater to irrigate 33 acres of irrigation. The split portion of the original right included in the transfer (right no. 63-34377) is for 2.2 of those irrigation acres and a 0.02 cfs diversion. The imagery available in ArcMap does not show that the 2.2 acres in question have been irrigated during the forfeiture review period. However, historical imagery in Google Earth shows irrigation of the POU as recently as June of

2014. Thus no forfeiture risk is found at this time. The unchanged part of right 63-32447 is not subject to a finding of forfeiture and its validity has not been evaluated at this time.

Injury to Other Water Rights:

There are three wells shown as centroids for the QQ description in ArcMap. The well information in ArcMap shows that only one of these is located at the applicant's physical address. Therefore, I have concluded that this well is the intended new POD for the transfer.

The proposed POD is approximately 0.04 miles southeast of the existing POD. The existing POD draws water from multiple zones ranging from 211 to 305 feet below the ground surface. From what I can tell, the proposed POD draws water from a zone 205 to 250 feet below the ground surface. It seems reasonable to suggest that the new POD draws water from the same zones as the existing POD. The transfer involves the diversion of a relatively small amount of water that will be moved just a short distance away to a well that draws water from a zone that was already affected by the existing POD. Therefore, I do not find any risk of injury to other water rights at this time. The POD does fall within the boundary of the South Canyon County Ground Water Area of Concern. However, the transfer involves a change to a minimal 0.02 cfs. It is unlikely that the change proposed in the transfer will change the effect on the original or hydraulically connected water source or affect other water rights.

Enlargement of Use:

Changing the POD of the right does not affect the total use or instantaneous diversion rate of the water right. The number of acres and the diversion rate and volume were split proportionally from the original right. Condition R65 will be retained through this transfer limiting the irrigation of the place of use to 0.02 cfs per acre and 4.5 afa per acre. Right no. 63-34377 authorizes less than 5 acres irrigation, which would typically justify a unit diversion rate of 0.03 cfs/acre (per Admin AP Memo No. 17). However, it is my understanding that rights 63-32448 and 63-32137 are diverted from the same POD for irrigation. The total irrigation use from the system exceeds 5 acres. Therefore, the argument presented in Admin AP Memo No. 17, that a higher diversion rate is necessary for irrigation of less than 5 acres because small systems operate inefficiently due to a poor economy of scale, does not apply in this case.

Local Public Interest:

No conflict with the public interest has been identified. The changes proposed do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, I find no cause to require this transfer application to be advertised

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I.C. §42-222 and should be processed

Overlap Analysis:

There are two other irrigation water rights with POU's that fall within the same QQ (not including Beranna Dairy's split portion of right no. 63-32447). Both of these two rights are

owned by Ian Byrnes, the applicant. Both of these rights, along 63-34377 were originally part of the same larger parent right. Mr. Byrnes has claimed portions of this larger parent right on separate occasions following separate purchases of land. Therefore, there is no place of use overlap. The three water rights now owned by the applicant combine to provide less than 1 inch per acre of water for the irrigated area. Condition R65 limits the irrigation to 0.02 cfs and 4.5 afa per acre. The applicant's rights are the only others that have points of diversion within the same QQ (again, not including Beranna Dairy's portion of the split right). Right Nos. 63-32137 & 63-32448 use the same well as this transfer proposes to use. The well was drilled in 1998 and the use on the well log is shown as domestic. It does not appear that a drilling permit upgrade fee has been requested for this well. I have sent a letter requesting this upgrade.

MEMORANDUM

Date: May 12, 2017
To: Transfer 81646
From: Cody Parker
Re: POD Clarification

I helped the applicant complete this transfer application during an office day. His intent is to only use the POD labeled as "new" on the application. The new POD is an existing well located on his property. The old (existing) POD is owned by the Beranna Dairy and he does not have access or permission to use it. The clarification should require no amendment per Admin TP Memo No. 20.

POD Clarification
5/12/2017

MEMORANDUM

Date: May 12, 2017
To: Transfer 81646
From: Cody Parker
Re: Total Amount Transferred

In Item 4 of the application, the total amount transferred is listed as 0.16 cfs. The parent right was 0.26 cfs to irrigate 33 acres. The applicant is claiming 2.2 acres which comes to 0.016 cfs or 0.02 rounded up. The mistake is inconsequential as the Ownership Change was processed before the transfer and the water right was divided proportionately based on the portion of the original place of use.

Total Amount Transferred
5/12/2017