

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81579

This is to certify that: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
37-21811	WR/DECREED	5/1/1888	0.260 cfs	N/A	N/A	30.3	BIG WOOD RIVER
37-21813	WR/DECREED	9/18/1885	0.260 cfs	N/A	N/A	30.3	BIG WOOD RIVER
37-21815	WR/DECREED	6/30/1884	0.510 cfs	N/A	N/A	30.3	BIG WOOD RIVER
37-21817	WR/DECREED	3/24/1883	0.320 cfs	N/A	N/A	30.3	BIG WOOD RIVER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-21811	YES	NO	YES	NO	NO	NO
37-21813	YES	NO	YES	NO	NO	NO
37-21815	YES	NO	YES	NO	NO	NO
37-21817	YES	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-21811	37-23038	0.010 cfs	N/A	N/A	1.3	37-21811	0.250 cfs	N/A	N/A	29.0
37-21813	37-23039	0.010 cfs	N/A	N/A	1.3	37-21813	0.250 cfs	N/A	N/A	29.0
37-21815	37-23040	0.020 cfs	N/A	N/A	1.3	37-21815	0.490 cfs	N/A	N/A	29.0
37-21817	37-23041	0.010 cfs	N/A	N/A	1.3	37-21817	0.310 cfs	N/A	N/A	29.0
COMBINED TOTALS		0.050 cfs	N/A	N/A	1.3		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 26th day of July, 2017

Southern Region Manager

SUPPORT DATA

Transfer No. 81579

IN FILE # 37-21811

WATER RIGHT NO. 37-21811**As Modified by Transfer No. 81579**

In accordance with the approval of Transfer No. 81579, Water Right No. 37-21811 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 5/1/1888

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to

To

10/31

Diversion Rate

0.250 cfs

0.250 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	4					2.1			4.9	20.5			1.5					29.0
							1.3												

POU Total Acres: 29.0

CONDITIONS OF APPROVAL

1. Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 29.0 acres in a single irrigation season.
2. Water diverted from Headgate #22 delivered through Hiawatha Canal.
3. The rights listed below, shall provide not more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used.
Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896, 37-22897, 37-22910, 37-22911, 37-22912, 37-22913, 37-22970, 37-22971, 37-22972 and 37-22973
4. 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.

Transfer No. 81579

WATER RIGHT NO. 37-23038

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-23038 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 5/1/1888

Source: BIG WOOD RIVER **Tributary:** MALAD RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/15	to 10/31	0.010 cfs 0.010 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER SWNW Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	33												1.3					1.3

POU Total Acres: 1.3

CONDITIONS OF APPROVAL

1. Rights 37-23038, 37-23039, 37-23040, and 37-23041 when combined shall not exceed the irrigation of 1.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
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. Water diverted from Headgate #22 delivered through Hiawatha Canal.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.
7. Place of use is located within Lot 3, Blk. 1, Buckhorn Subdivision, First Addition.

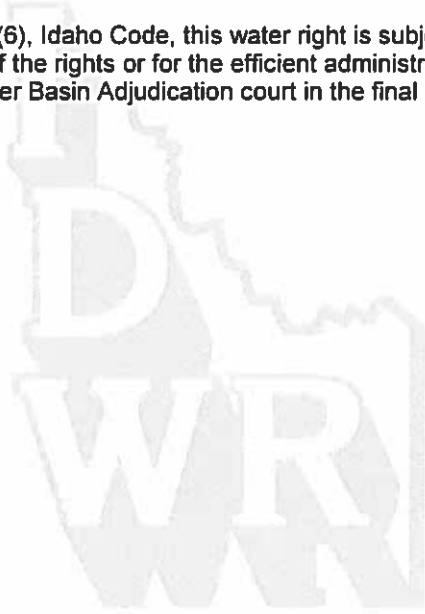
Transfer No. 81579

WATER RIGHT NO. 37-23038

As Modified by Transfer No. 81579

CONDITIONS OF APPROVAL

8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 37-21813

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-21813 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 9/18/1885

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to

To

10/31

Diversion Rate

0.250 cfs

0.250 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	4					2.1			4.9	20.5			1.5					29.0
							L3												

POU Total Acres: 29.0

CONDITIONS OF APPROVAL

- Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 29.0 acres in a single irrigation season.
- Water diverted from Headgate #22 delivered through Hiawatha Canal.
- The rights listed below, shall provide nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896, 37-22897, 37-22910, 37-22911, 37-22912, 37-22913, 37-22970, 37-22971, 37-22972 and 37-22973
- 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.

Transfer No. 81579

WATER RIGHT NO. 37-23039

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-23039 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 9/18/1885

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE
IRRIGATION

From 04/15 **To** 10/31

Diversion Rate
0.010 cfs
0.010 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER SWNW Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	33												1.3					1.3

POU Total Acres: 1.3

CONDITIONS OF APPROVAL

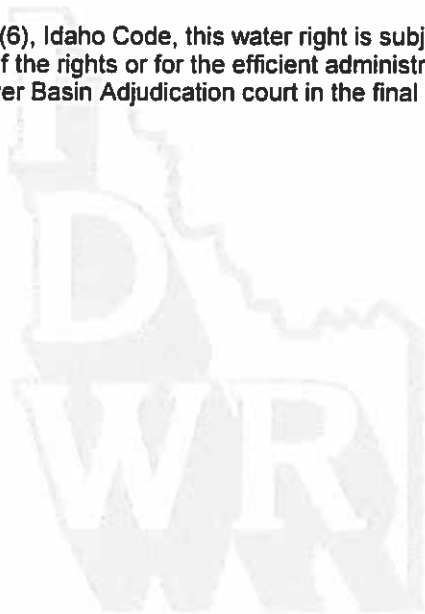
1. Rights 37-23038, 37-23039, 37-23040, and 37-23041 when combined shall not exceed the irrigation of 1.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
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. Water diverted from Headgate #22 delivered through Hiawatha Canal.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.
7. Place of use is located within Lot 3, Blk. 1, Buckhorn Subdivision, First Addition.

Transfer No. 81579

WATER RIGHT NO. 37-23039
As Modified by Transfer No. 81579

CONDITIONS OF APPROVAL

8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 37-21815

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-21815 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 6/30/1884

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to

To

10/31

Diversion Rate

0.490 cfs

0.490 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	4					2.1			4.9	20.5			1.5					29.0
							L3												

POU Total Acres: 29.0

CONDITIONS OF APPROVAL

- Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 29.0 acres in a single irrigation season.
- Water diverted from Headgate #22 delivered through Hiawatha Canal.
- The rights listed below, shall provide nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896, 37-22897, 37-22910, 37-22911, 37-22912, 37-22913, 37-22970, 37-22971, 37-22972 and 37-22973
- 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.

Transfer No. 81579

WATER RIGHT NO. 37-23040

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-23040 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 6/30/1884

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to 10/31

To

Diversion Rate

0.020 cfs

0.020 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	33												1.3					1.3

POU Total Acres: 1.3

CONDITIONS OF APPROVAL

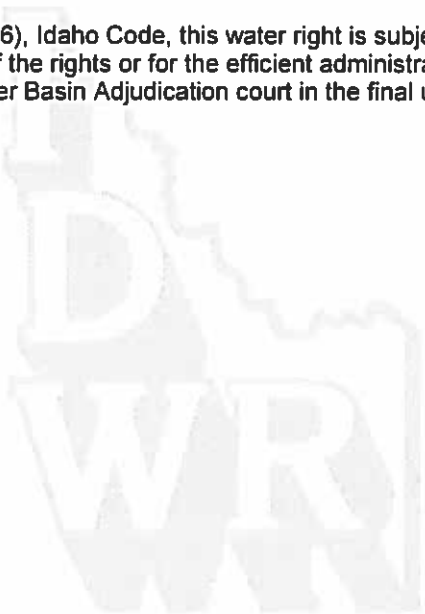
1. Rights 37-23038, 37-23039, 37-23040, and 37-23041 when combined shall not exceed the irrigation of 1.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
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. Water diverted from Headgate #22 delivered through Hiawatha Canal.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.
7. Place of use is located within Lot 3, Blk. 1, Buckhorn Subdivision, First Addition.

Transfer No. 81579

WATER RIGHT NO. 37-23040
As Modified by Transfer No. 81579

CONDITIONS OF APPROVAL

8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 37-21817
As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-21817 is now described as follows:

Right Holder: WEST OF FIRST LLC
 9533 W PICO BLVD 2ND FLOOR
 LOS ANGELES, CA 90035

Priority Date: 3/24/1883

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to 10/31

To

Diversion Rate

0.310 cfs

0.310 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
02N	18E	4					2.1			4.9	20.5			1.5					29.0
							L 3												

POU Total Acres: 29.0

CONDITIONS OF APPROVAL

- Right Nos. 37-21811, 37-21813, 37-21815 and 37-21817 are limited to the irrigation of a combined total of 29.0 acres in a single irrigation season.
- Water diverted from Headgate #22 delivered through Hiawatha Canal.
- The rights listed below, shall provide nor more than 3.5 afa per acre at the field headgate for irrigation of the lands in the place of use whenever sprinkler methods of irrigation are used. Combined Right Nos. 37-21811, 37-21813, 37-21815, 37-21817, 37-22890, 37-22891, 37-22892, 37-22893, 37-22894, 37-22895, 37-22896, 37-22897, 37-22910, 37-22911, 37-22912, 37-22913, 37-22970, 37-22971, 37-22972 and 37-22973
- 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.

Transfer No. 81579

WATER RIGHT NO. 37-23041

As Modified by Transfer No. 81579

In accordance with the approval of Transfer No. 81579, Water Right No. 37-23041 is now described as follows:

Right Holder: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Priority Date: 3/24/1883

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to

To

10/31

Diversion Rate

0.010 cfs

0.010 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG WOOD RIVER

SWNW

Sec 20 Twp 03N Rge 18E BLAINE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	18E	33												1.3					1.3

POU Total Acres: 1.3

CONDITIONS OF APPROVAL

1. Rights 37-23038, 37-23039, 37-23040, and 37-23041 when combined shall not exceed the irrigation of 1.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
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. Water diverted from Headgate #22 delivered through Hiawatha Canal.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. This right does not grant any right-of-way or easement across the land of another.
7. Place of use is located within Lot 3, Blk. 1, Buckhorn Subdivision, First Addition.

Transfer No. 81579

WATER RIGHT NO. 37-23041
As Modified by Transfer No. 81579

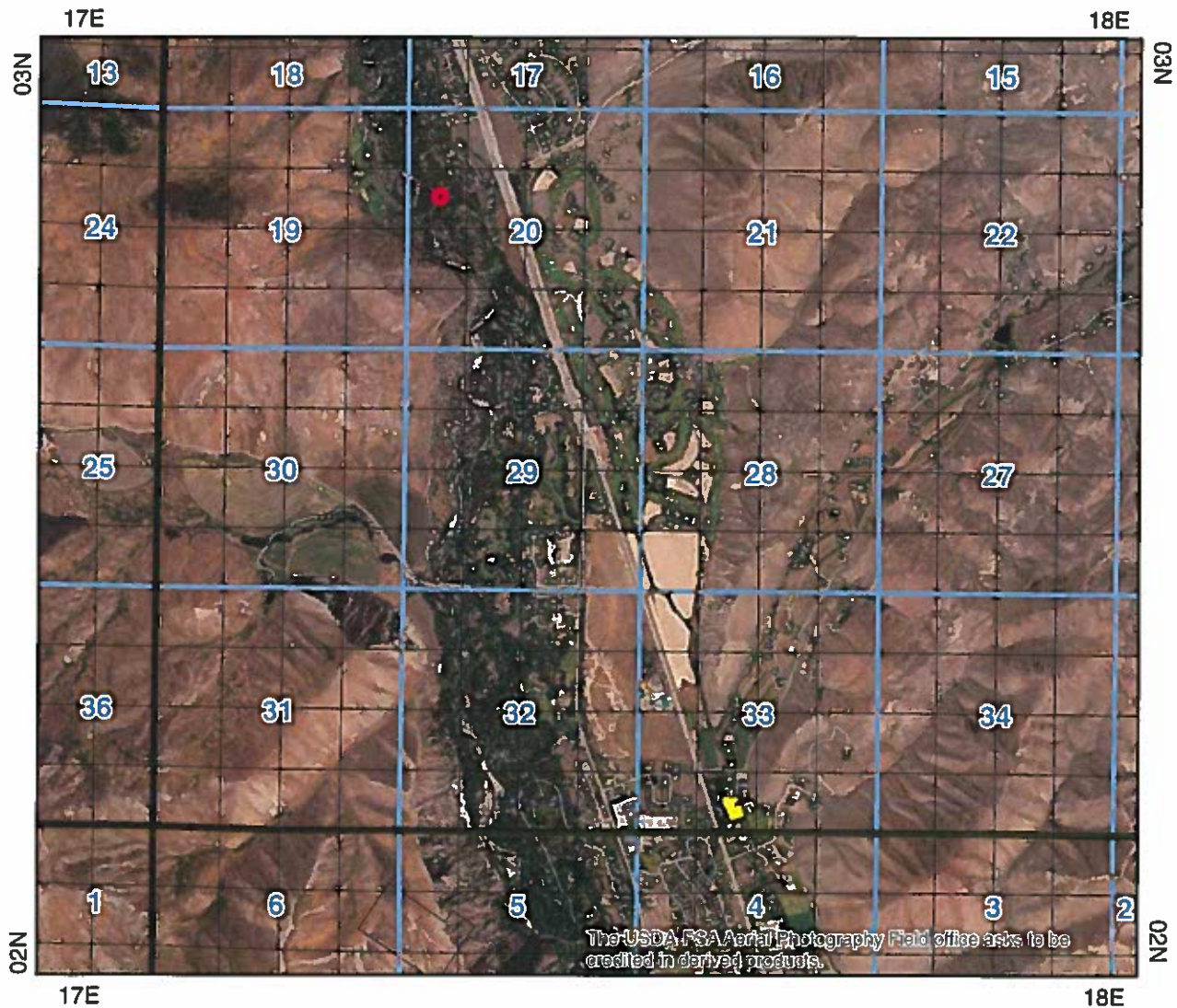
CONDITIONS OF APPROVAL

8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. 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 # 81579
37-23038, 37-23039, 37-23040, and 37-23041

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



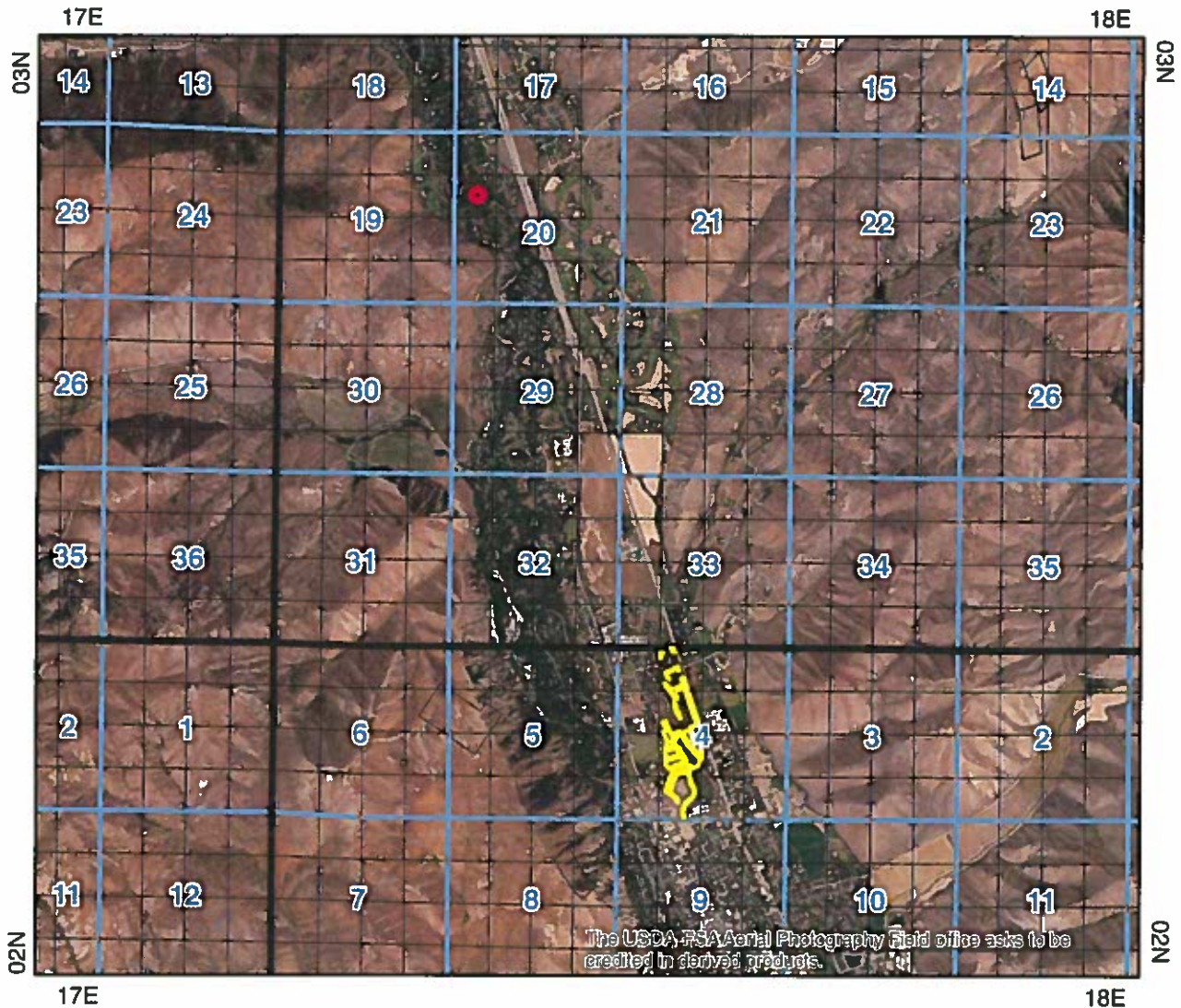
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

State of Idaho
Department of Water Resources

Attachment to Transfer # 81579

37-21811, 37-21813, 37-21815 and 37-21817

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



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

0 0.5 1 2 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

August 2, 2017

WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035

Re: Transfer No: 81579
Water Right No(s): 37-21811, 37-21813, 37-21815, 37-21817

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.

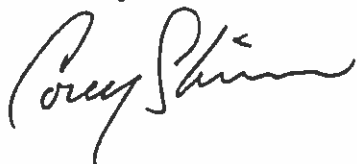
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and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

Corey Skinner
Southern Regional Manager

Enclosure

cc:

FRITZ X HAEMMERLE
HAEMMERLE LAW PLLC
400 S MAIN ST STE 102
PO BOX 1800
HAILEY ID 83333

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

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 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.: 81579

Water Right No(s): 37-21811, 37-21813, 37-21815, 37-21817

**WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES CA 90035**

**FRITZ X HAEMMERLE
HAEMMERLE LAW PLLC
400 S MAIN ST STE 102
PO BOX 1800
HAILEY ID 83333**

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

via e-mail



**Denise Maline
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Bitzenburg, James

From: Mike Scott <Mike.Scott@itd.idaho.gov>
Sent: Wednesday, June 28, 2017 8:15 AM
To: Bitzenburg, James
Subject: RE: Ownership of a parcel of land

James-

I am familiar with this parcel since we worked with some of the homwowners in the area a few years back concerning flooding into the old Railroad Right of Way on the Indian Creek drainage. The parcel you have identified is owned by ITD by a Quitclaim deed from the railroad in 1987. We did not purchase water rights with any of the railroad property so I don't believe we would have any issues with the Application for Transfer of Water Rights you are working on. I couldn't access the application link you attached, but as long as the transfer does not impact any of our land ownership rights, ITD wouldn't have an issue with the transfer.

I hope this helps. If you have any further questions about the property, please let me know.

Michael Scott

District 4 Project Manager
216 S. Date Street
Shoshone, ID 83352
208-886-7806
Mike.Scott@itd.idaho.gov

From: Bitzenburg, James [mailto:James.Bitzenburg@idwr.idaho.gov]
Sent: Tuesday, June 27, 2017 4:52 PM
To: Mike Scott
Subject: Ownership of a parcel of land

Mike-

I have been processing an **Application for the Transfer of Water Right** for West of First, LLC involving a 1.3 acre portion of 4 decreed Big Wood River water rights which are delivered through the Hiawatha Canal to property on the north end of Hailey. The 1.3 acre parcel from which the rights are being transferred sits adjacent to the Blaine County Bike Path on the north end of Hailey in T03N, R18E, Section 4, NENW, Gov. Lot 4. The attached Area Map shows the general location, and the Parcel map gives a more precise location. The rights involved (37-21811, 37-21813, 37-21815, and 37-21817) were decreed in the Snake River Basin Adjudication in 2011 in the name of EMB Hailey LP and were subsequently sold to West of First, LLC. The rights were claimed both on land owned by EMB Hailey and on land not owned by EMB Hailey (such as this parcel on what I assume was the old railroad right-of-way). Since no one objected, the court decreed the rights where they were claimed in the adjudication. For this transfer, we are trying to make sure the present owner of the rights, West of First, LLC, can complete the transfer without any issues pertaining to ownership of the rights. I queried the Blaine County Assessor's office to ascertain ownership of the parcel, but they could not determine ownership and referred me to you.

I guess what it boils down to is: does ITD have a problem with West of First completing this transfer, and does ITD even care? It doesn't appear, from analyzing aerial imagery, that irrigation has occurred in many years on the parcel. If you would like to view the transfer documents, here is the link:

<http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/zlj301.PDF>

If you have any questions or would like to discuss the matter, feel free to give me a call or email. Thanks for your assistance on this.

Jim

Jim Bitzenburg
Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov

MEMORANDUM

Date: June 27, 2017
To: Transfer 81579, West of First, LLC File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to split off a 1.3 acre portion (0.05 cfs) of four Big Wood River irrigation water rights (30.3 acres), which are delivered through the Hiawatha Canal, and move it to a nearby property. The current place of use is located approximately 1.5 miles north and 0.2 mile west of the intersection of Main and Bullion Streets in Hailey. The proposed place of use is located approximately 1.7 miles north and 0.1 mile west of Hailey. There will be no change to the point of diversion.

This transfer will be advertised and comments will be sought from the Watermaster of Water District 37. A change of ownership will occur after the transfer is approved.

- **Authority to File:**

The Department's database indicates that water rights 37-21811, 37-21813, 37-21815, and 37-21817 are owned by the applicant, West of First, LLC. Application was signed by Mark Caplow, manager of West of First, LLC (Idaho Secretary of State Office Annual Report form for the LLC is included with the application). Tax lot data shows that the proposed place of use is owned by the Michael D. Parmelee Revocable Trust of 2007. An agreement for purchase and sale of water is included with the application.

- **Water Right Validity:**

Rights 37-21811, 37-21813, 37-21815, and 37-21817 were decreed in 2011 and have been in the Water Supply Bank so are protected from forfeiture.

The above 4 rights were decreed in 2011 on land owned both by the claimant, and by other parties. It appears (see email from Mike Scott, Idaho Transportation Department) that the ownership of the parcel from which the 1.3 acres are being transferred lies with the Idaho Transportation Department, and when they were quitclaimed the property, no water rights were included. They make no claim to the rights.

The water right reports for rights 37-21813, 37-21815, and 37-21817 show their decree date as 8/30/2010, when it should be 8/30/2011. The date for right 37-21811 is correct.

- **Injury to Other Water Rights:**

None anticipated or foreseen. The POD is not moving and the total amount diverted will not change.

- **Enlargement of Use:**

None anticipated. No increase in irrigated acreage will occur.

- **Local Public Interest:**

No issues anticipated. The transfer has been 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.

RECEIVED

JUN 19 2017

COPY OF NOTICE

AFFIDAVIT of PUBLICATION

State of Idaho
County of BlaineDEPT OF WATER RESOURCES
SOUTHERN REGION

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

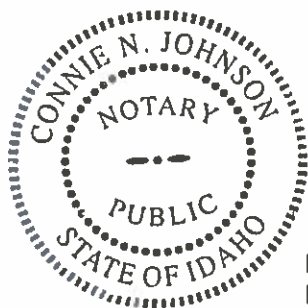
each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 7th day of

June, 20 17, and the date of the last publication was on the 14th day of June, 20 17

Subscribed and sworn to before me this 14 day of

June, 20 17.

Connie N Johnson
NOTARY PUBLIC



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

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340
COST OF PUBLICATION

Number of Picas per Line 11.5

Number of Lines in Notice 51

Number of Insertions 2

Lines tabular at 9.0 cents/pica

51 Lines straight at \$46.92 8.0 cents/pica

51 Subsequent lines at \$41.01 7.0 cents/pica

TOTAL COST \$87.93

Legal Notice

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR

BILL TO

NOTICE OF PROPOSED CHANGE
OF WATER RIGHT
TRANSFER NO. 81579

WEST OF FIRST LLC, 9533 W PICO BLVD 2ND FLOOR, LOS ANGELES, CA 90035; has filed Application No. 81579 for changes to the following water rights within BLAINE County(s): Right No(s). 37-21811, 37-21813, 37-21815, 37-21817; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to split off

a 1.3 acre portion (0.05 cfs) of four Big Wood River irrigation water rights (30.3 acres), which are delivered through the Hiawatha Canal, and move it to a nearby property. The current place of use is located approximately 1.5 miles north and 0.2 mile west of the intersection of Main and Bullion Streets in Hailey. The proposed place of use is located approximately 1.7 miles north and 0.1 mile west of Hailey. There will be no change to the point of diversion.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before June 28, 2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
JUNE 7 & 14, 2017

✓ OK AM 6/20/2017

Via E-mail
RECEIVED

JUN 06 2017

DEPT. OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

Transfer Application No.: 81579

Water Right No(s): 37-21811, etc.

Transfer Applicant's Name: WEST OF FIRST LLC
9533 W PICO BLVD 2ND FLOOR
LOS ANGELES, CA 90035

Water master's Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 6th day of June, 2017

Water District No. 37

Kevin Lakey

Water master's Signature

Kevin Lakey

Printed Name

Bitzenburg, James

From: Nancy Anderson <nanderson@co.blaine.id.us>
Sent: Tuesday, June 06, 2017 8:38 AM
To: Bitzenburg, James
Subject: FW: Map of parcel in question
Attachments: From parcel.pdf

Mr. Bitzenburg,

Upon researching, our office recommends that you contact the ITD as we aren't showing any information as to any different ownership pertaining to that portion of the railroad. I apologize for having to forward you but I do have the following contact at ITD should you need one.

Mike Scott
208-886-7806
mike.scott@itd.idaho.gov

Should you have any questions and/or concerns, please feel free to contact our office.

Thank you,

Nancy Anderson | Deed Processor
Blaine County Assessor's Office
219 S. First Avenue, Suite 101, Hailey, ID 83333
Phone: (208) 788-5535 | Fax: (208) 788-5542
Website: www.blainecounty.org
Property Information: <http://maps.co.blaine.id.us/>

From: Nancy Anderson
Sent: Tuesday, May 30, 2017 5:28 PM
To: 'James.Bitzenburg@idwr.idaho.gov'
Cc: Alisa DeFort
Subject: FW: Map of parcel in question

Mr. Bitzenburg,

We are in receipt of your request and are researching the information in hopes to respond within a couple of days.

Thank you for your patience.

Nancy Anderson | Deed Processor
Blaine County Assessor's Office
219 S. First Avenue, Suite 101, Hailey, ID 83333
Phone: (208) 788-5535 | Fax: (208) 788-5542

Website: www.blainecounty.org

Property Information: <http://maps.co.blaine.id.us/>

From: Alisa DeFort
Sent: Tuesday, May 30, 2017 3:36 PM
To: Nancy Anderson
Subject: FW: Map of parcel in question

Nancy,

Here is more information on that water rights customer service call...

Thanks!

Alisa C. DeFort - Deed Processor
Blaine County Assessor's Office
219 S. First Avenue, Suite 101, Hailey, ID 83333
Phone: (208) 788-5535 | Fax: (208) 788-5542
Website: www.blainecounty.org
Property Information: <http://maps.co.blaine.id.us/>

From: Bitzenburg, James [<mailto:James.Bitzenburg@idwr.idaho.gov>]
Sent: Tuesday, May 30, 2017 2:51 PM
To: Alisa DeFort
Subject: Map of parcel in question

Attached is the map showing the portion of the parcel whose ownership is in question. Let me know if you have any questions. Thank you .

Jim Bitzenburg
Water Resource Agent
Idaho Department of Water Resources
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov