

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81511

This is to certify that: INFINITE ENERGY LLC
C/O DAVE C ERLEBACH
1711 SLIPSTREAM WAY
CALDWELL, ID 83605

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>
67-4269	WR/DECREED	3/1/1945	0.440 cfs	99.0 af	N/A	22.0	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>
67-4269	YES	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>
67-4269	67-15172	0.400 cfs	90.0 af	N/A	20.0	67-4269	0.040 cfs	9.0 af	N/A	2.0
COMBINED TOTALS		0.400 cfs	90.0 af	N/A	20.0		0.04 cfs	9.0 af	N/A	2.0

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 24 day of APRIL, 2017.


for Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 67-4269

Transfer No. 81511

WATER RIGHT NO. 67-4269
As Modified by Transfer No. 81511

In accordance with the approval of Transfer No. 81511, Water Right No. 67-4269 is now described as follows:

Right Holder: LYNN A ANDERSON REV TRUST
 270 HWY 95
 WEISER, ID 83672

Priority Date: 3/1/1945

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.040 cfs 0.040 cfs	9.0 af 9.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENWNW	Sec 9	Twp 10N Rge 05W WASHINGTON County
GROUND WATER	SENWNW	Sec 9	Twp 10N Rge 05W WASHINGTON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10N	05W	9							2.0										2.0

POU Total Acres: 2.0

CONDITIONS OF APPROVAL

1. 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. 67-15172**As Modified by Transfer No. 81511**

In accordance with the approval of Transfer No. 81511, Water Right No. 67-15172 is now described as follows:

Right Holder: INFINITE ENERGY LLC
C/O DAVE C ERLEBACH
1711 SLIPSTREAM WAY
CALDWELL, ID 83605

Priority Date: 3/1/1945

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

03/01

To

to 11/15

Diversion Rate

0.400 cfs

0.400 cfs

Diversion Volume

90.0 af

90.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
GROUND WATER

NWNW
NWNW

Sec 9 Twp 10N Rge 05W WASHINGTON County
Sec 9 Twp 10N Rge 05W WASHINGTON 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	
10N	05W	9						20.0											20.0

POU Total Acres: 20.0

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 81511

WATER RIGHT NO. 67-15172

As Modified by Transfer No. 81511

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. 81511
Water Right(s): 67-15172 (split from 67-4269)

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



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

0 0.04 0.08 0.16 Miles

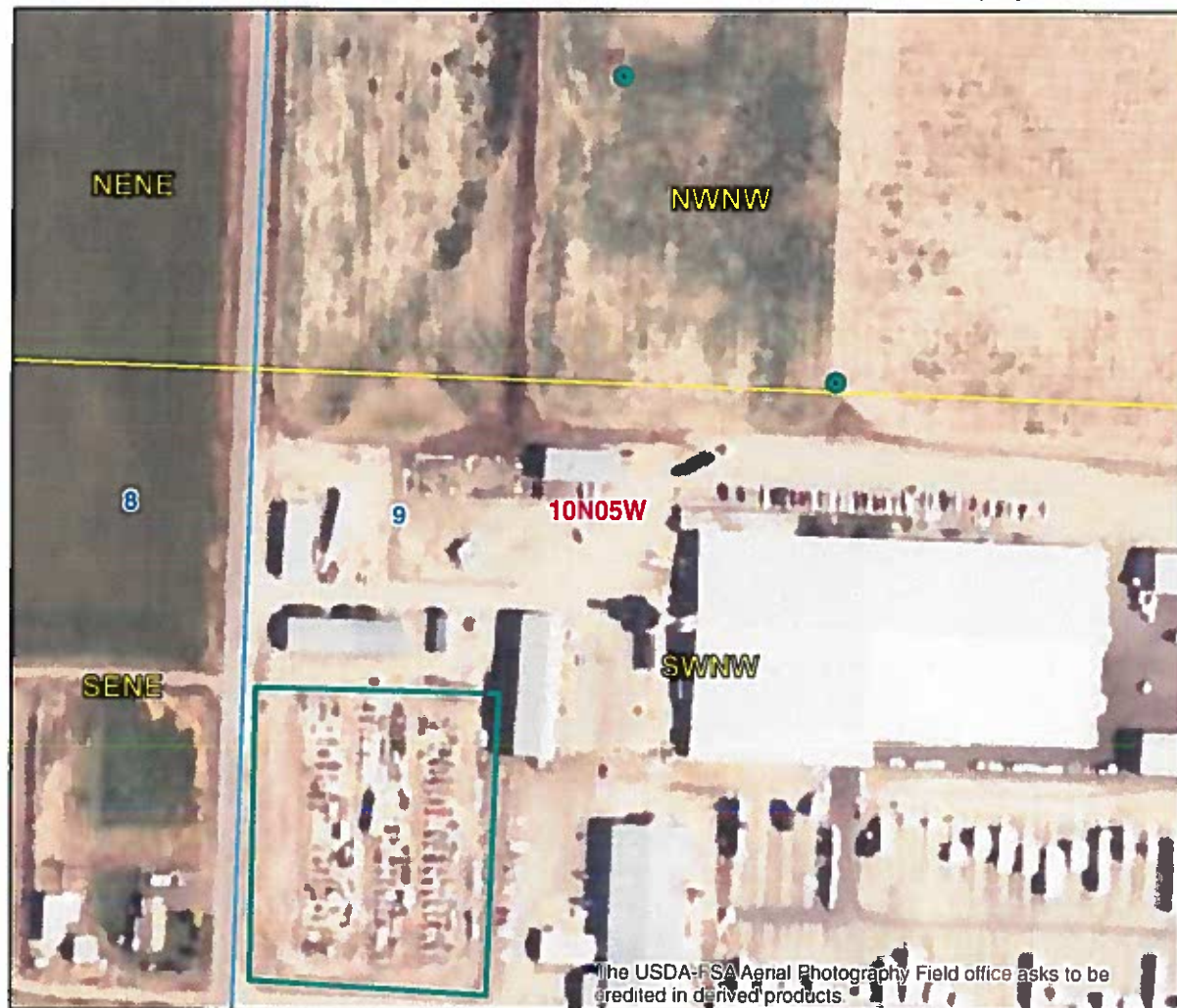


State of Idaho
Department of Water Resources

Attachment to Transfer No. 81511

Water Right(s): 67-4269 (after split)

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



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

0 0.05 0.1 Miles



Transfer No. 81511

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:

2 wells, pumps

Measuring devices and lockable controlling works will be accommodated upon Department request.

- 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.

Signature of applicant or authorized agent

DAVE FRUEBACH MEMBER
Print name and title if applicable

MARCH 9, 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 5 pages of attachments.

Received by CS

Date 3/14/17

Fee paid \$500.00 Date 3/14/17

Received by CS

Receipt # WD45016

Preliminary review by CP

Date 3-16-17

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)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 14 2017
WATER RESOURCES
DIVISION
SOUTHERN 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)** Infinite Energy, LLC Phone (208) 573-3582
2. **MAILING ADDRESS** c/o Dave C. Erlebach, PO Box 97 City Caldwell
State ID Zip 83606 Email dave@ib-usa.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)** 63-4269

☒ 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 0.40 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 #
N			NW	NW	9	10N	5W	Washington	Ground Water	
N			NW	NW	9	10N	5W	Washington	Ground Water	

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:

2 wells, pumps

Measuring devices and lockable controlling works will be accommodated upon Department request.

- 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.

Signature of applicant or authorized agent

DAVE ERLEBACH MEMBER
Print name and title if applicable

MARCH 9, 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 5 pages of attachments.

Received by CS

Date 3/14/17

Fee paid \$500⁰⁰ Date 3/14/17

Received by CS

Receipt # W045016

Preliminary review by _____

Date _____

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

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

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

2/8/2017

WATER RIGHT NO. 67-4269

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LYNN A ANDERSON REV TRUST 270 HWY 95 WEISER, ID 83672
Original Owner	MARGARETTE M COX PO BOX 8 DEARY, ID 83823 (208)877-1335
Original Owner	ROSAMOND H ANDERSON 387 HILL RD WEISER, ID 83672 (208)549-1619

Priority Date: 03/01/1945

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/01	11/15	0.44 CFS	99 AFA
Total Diversion			0.44 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SENWNW	Sec. 09	Township 10N	Range 05W	WASHINGTON County
GROUND WATER	SENWNW	Sec. 09	Township 10N	Range 05W	WASHINGTON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION WASHINGTON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
10N	05W	9		NWNW	20		SWNW	2						

Total Acres: 22

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Dates:

Licensed Date:

Decreed Date: 10/20/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

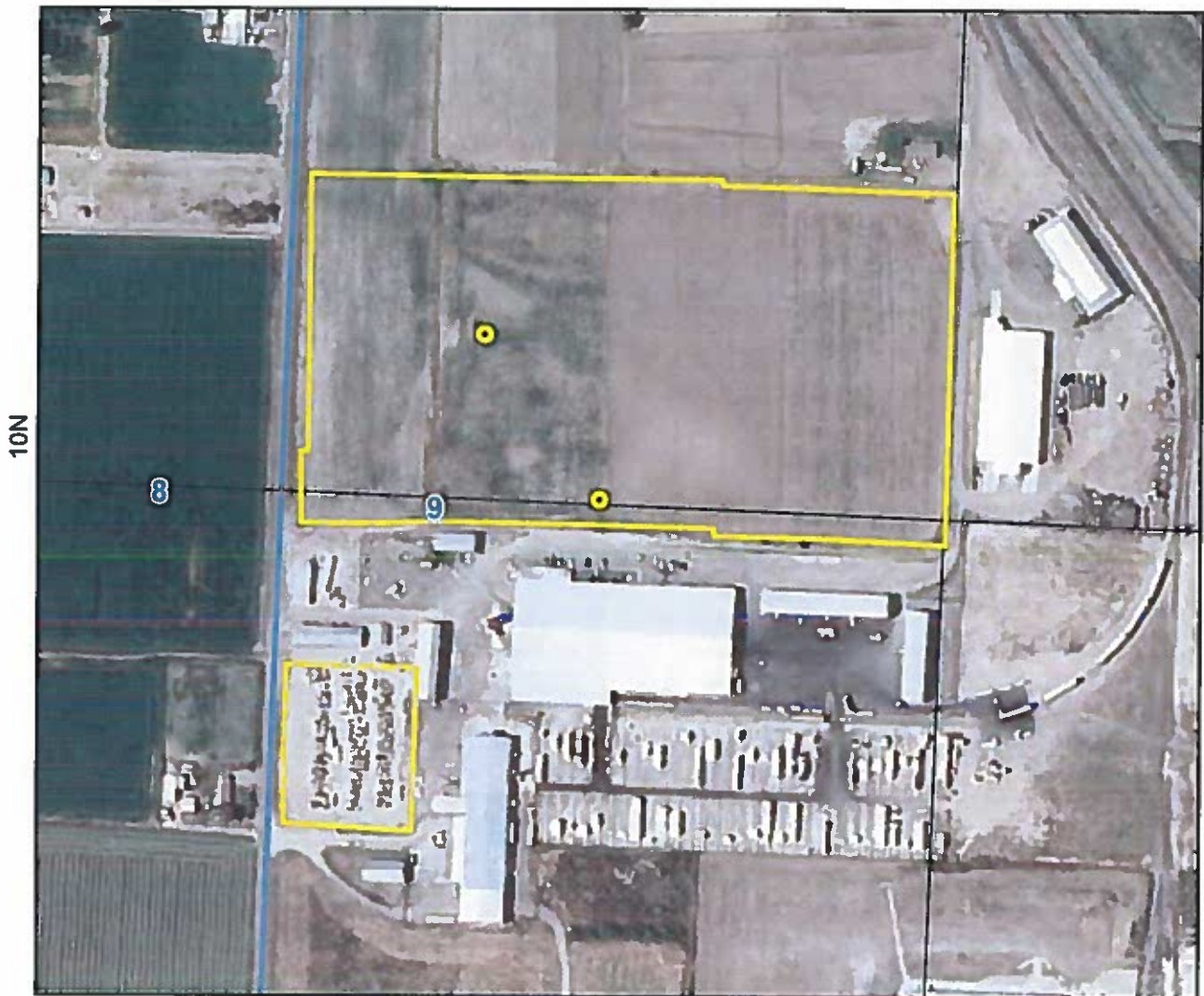
State of Idaho
Department of Water Resources

Water Right 67-4269

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

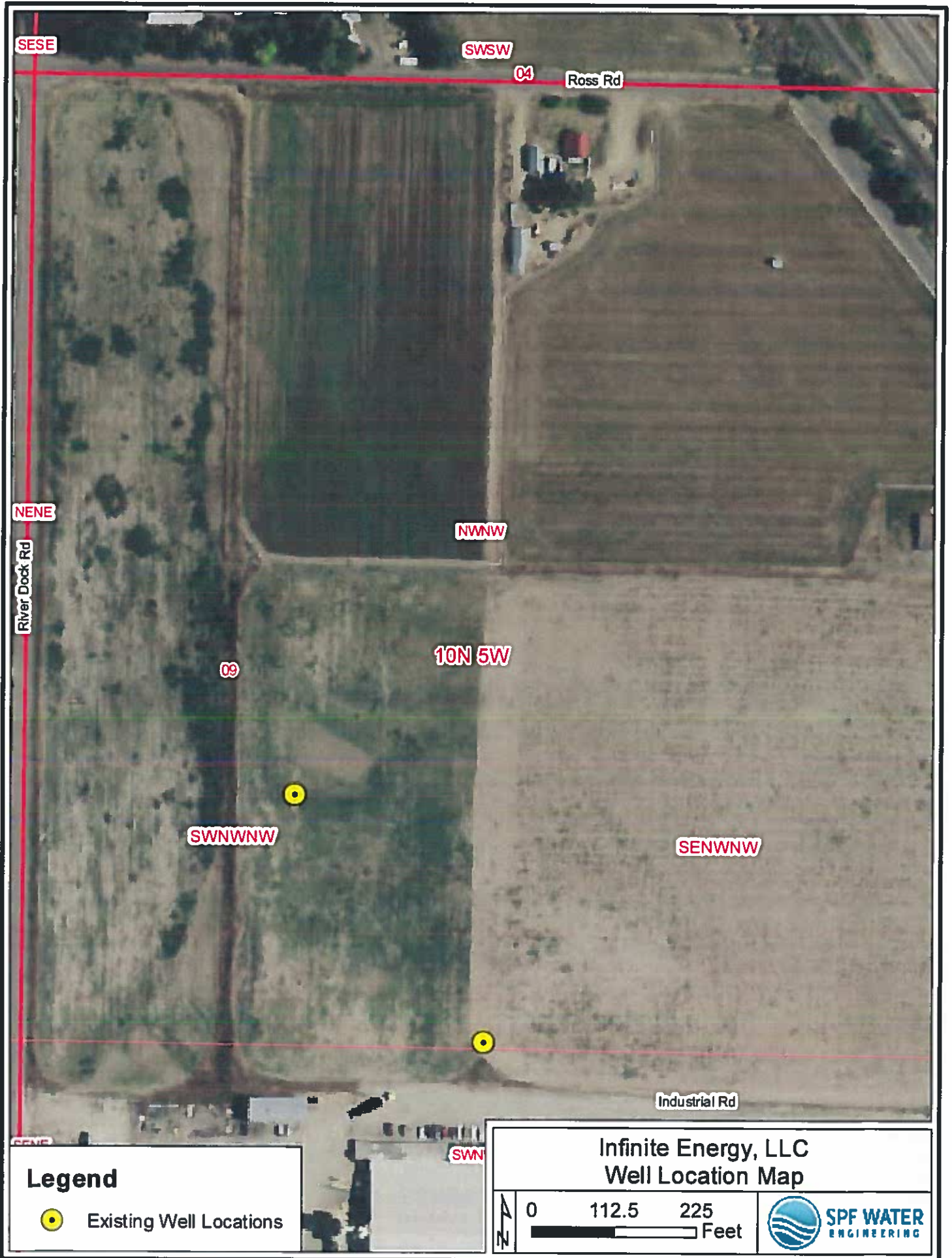
05W



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

0 0.0425 0.085 0.17 Miles





No. W 108582	Due no later than Nov 30, 2016 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed. INFINITE ENERGY, LLC DAVE ERLEBACH PO BOX 97 CALDWELL ID 83606		DAVE ERLEBACH 1711 SLIPSTREAM WAY CALDWELL ID 83605			
			3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held MEMBER	Name DAVID C ERLEBACH	Street or PO Address 1711 SLIPSTREAM WAY	City CALDWELL	State ID	Country USA	Postal Code 83605
5. Organized Under the Laws of: ID W 108582	6. Annual Report must be signed.* Signature: Dave Erlebach Name (type or print): Dave Erlebach Date: 10/09/2016 Title: President					
Processed 10/09/2016		* Electronically provided signatures are accepted as original signatures.				



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

April 24, 2017

INFINITE ENERGY LLC
C/O DAVE C ERLEBACH
1711 SLIPSTREAM WAY
CALDWELL ID 83605

Re: Transfer No: 81511
Water Right No(s): 67-4269

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)334-2190.

Sincerely,

 Rachel Neeley for:

Nick Miller

Western Regional Manager

Enclosure

CC:

SPF WATER ENGINEERING LLC
LYNN A ANDERSON REVOCABLE TRUST

CERTIFICATE OF SERVICE

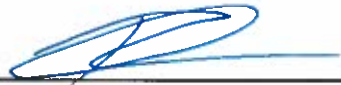
I hereby certify that on April 24, 2017 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 81511
Water Right No(s): 67-4269**

**INFINITE ENERGY LLC
C/O DAVE C ERLEBACH
1711 SLIPSTREAM WAY
CALDWELL ID 83605**

**SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706**

**LYNN A ANDERSON REVOCABLE TRUST
270 HWY 95
WEISER ID 83672**



**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MEMORANDUM

TO: Transfer No. 81511 File
FROM: Cody Parker
DATE: March 16, 2017
RE: Evaluation of Sufficiency of Information Submitted

The purpose of the transfer is to remove the 10-acre designation from the point-of-diversion description to allow flexibility when developing a new well to replace one of the older wells. Water will be used at the current place of used generally located approximately 2 miles southeast of Weiser, Idaho.

Summary of Information Submitted

Authority to File: The proposed transfer involves right no. 67-4269, which authorizes the diversion of 0.44 cfs and 99 afa from groundwater for irrigation of 22 acres. The applicant claims 20 acres of the original 22 listed on the water right through purchase of the associated land, and the warrantee deed provided with the Change in Ownership form supports this claim. Dave Erlebach signed for the applicant, and is listed as president of Infinite Energy LLC on the entity's annual report form for 2016. According to the maps provided with the Change in Ownership form, the applicant now owns the lands on which the current PODs are located.

Water Right Validity: The portion of the right being changed is the 20 acres of irrigation located in the NW¼ of the NW¼ of Section 9, Township 10 North, Range 05 West, Boise Meridian. Looking at aerial imagery from 2011 to 2015, it is clear that the POU has been irrigated during the previous consecutive 5-year period. Therefore, no forfeiture risk is found at this time.

Overlap Analysis: There are 16 other water rights which lie either partially or wholly within the same QQ as the newly-split portion of right no. 67-4269. Of these 16, 15 rights are owned by either the Lower Payette Ditch Co. or the Lake Reservoir Co. The NWNWNW QQQ is part of the same taxlot as the POU and appears to be irrigated in the aerial imagery. In that specific area, there are no water rights except surface water from the ditch company. Therefore, it stands to reason that surface water shares are used for irrigation on the property and may be used alongside the groundwater diversion for irrigation of the POU. The original right did not have any supplemental use or combined use limits. Condition R65 will be added through the transfer to ensure that water diverted for irrigation does not exceed 0.02 cfs/acre or 4.5 afa/acre.

The one other water right in the QQ (67-12326) is for domestic use and thus does not overlap with the right included in the transfer. 67-12326 is also the only other water right with a POD that lies within the QQ. Its 10-acre description for the POD puts the well in the NE¼ of the NW¼ of the NW¼. So it is reasonable to assume that it is not overlapping with either of the PODs for this right, which are both located in the S½ of the NW¼ of the NW¼.

Injury to Other Water Rights: None anticipated. Practically speaking, the transfer does not make any changes to the water right as it is implemented. Instead, it removes the 10-acre description from the POD to allow the owner to develop a replacement well within a 40-acre area.

Enlargement of Use: None anticipated. There is no change to the rate of diversion, annual diversion volume, or number of acres irrigated under the original right.

Local Public Interest: No issues identified. The proposed transfer changes nothing in terms of the implementation of this right.

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.

Discussion

There was one small error on the application which required an amendment. On both section 3 of the application and the letter from the representative, the right being transferred is referred to as “63-4269” rather than 67-4269. This error was corrected through an amendment received on 03/20/17.

The letter from Lori Graves of SPF submitted with the transfer application mentions that the 10-acre designation is being removed to allow flexibility when choosing a site for a replacement well. The transfer should include condition 046 to remind the applicant that construction of the well is subject to the Well Construction Standards as defined in IDAPA 37.03.09 and the drilling permit requirements as set forth in Section 42-435 *Idaho Code*.

MEMORANDUM

Date: March 15, 2017
To: Transfer 81511
From: Angie Grimm
Re: Legal Notice Not Required

Legal Notice Not Required
3/15/2017

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.



SPF WATER
ENGINEERING

March 8, 2017

RECEIVED
MAR 14 2017
WATER RESOURCES
WESTERN REGION

Angie Grimm
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

Subject: Application for Transfer

Dear Angie,

Enclosed on behalf of Infinite Energy, LLC, is an *Application for Transfer* seeking to correct the decreed diversion points for water right 63-4269. The decree record describes both wells in the SENWNW, when they are actually located in the SWNWNW as shown on the Department's associated water right map. The applicant wishes to replace one of the two wells before the start of 2017 irrigation season and is proposing both wells be described to the forty-acre tract rather than a ten-acre tract. This will allow drilling flexibility as well as correct the water right record. Thank you for agreeing to expedite this transfer application to allow timely drilling of a replacement well. Please note that the applicant owns 20 of the 22 acres authorized under the water right. A Notice of Change in Water Right Ownership was previously submitted February 13, 2017.

Check No. 97283 for \$500 is enclosed for the filing fee. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Sot Chimonas, Dave Erlebach

Enclosures

SPF file number: 1324.0010



SPF WATER
ENGINEERING

February 13, 2017

Angie Grimm
IDWR Western Region Office
2735 Airport Way
Boise, ID 83705

RECEIVED
FEB 15 2017
WATER RESOURCES
WESTERN REGION

Subject: Application for Permit, Ownership Change Notice

Dear Angie,

Enclosed on behalf of the Infinite Energy, LLC, is an *Application for Permit* seeking to divert ground water from a new well for a food processing and biorefinery plant and a *Notice of Change in Water Right Ownership* for the portion of water right 67-4269 appurtenant to their property.

Check No. 97100 for \$350 is enclosed for the filing fee; \$250 for the permit application and \$100 for the ownership change. Thank you very much for your consideration and assistance in this matter. Please call me if you have any questions.

Sincerely,

Lori Graves
Water Rights Specialist

Cc: Sot Chimonas, Dave Erlebach

Enclosures

SPF file number: 1324.0010