

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81050**

This is to certify that: **NEDEREND FARMS LLLP**
4998 HOGG RD
HOMEDALE, ID 83628

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

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
57-2341	WR/DECREED	9/9/1962	1.710 cfs	722.9 af	N/A	111.0	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>
57-2341	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
57-2341	57-2341	1.710 cfs	722.9 af	N/A	111.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.710 cfs	722.9 af	N/A	111.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 29th day of December, 2016.



Chief, Water Allocation Bureau

WATER RIGHT NO. 57-2341**As Modified by Transfer No. 81050**

In accordance with the approval of Transfer No. 81050, Water Right No. 57-2341 is now described as follows:

Right Holder: NEDEREND FARMS LLLP
4998 HOGG RD
HOMEDALE, ID 83628

Priority Date: 9/9/1962

Source: GROUND WATER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	01/01	to 12/31	0.570 cfs	121.0 af
IRRIGATION	03/15	to 11/15	1.140 cfs	499.5 af
STOCKWATER	01/01	to 12/31	0.570 cfs	102.4 af
			1.710 cfs	722.9 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNE	Sec 31 Twp 03N Rge 04W OWYHEE County
GROUND WATER	NWNE	Sec 31 Twp 03N Rge 04W OWYHEE County
GROUND WATER	NWNW	Sec 32 Twp 03N Rge 04W OWYHEE County
GROUND WATER	NWNW	Sec 32 Twp 03N Rge 04W OWYHEE County

PLACE OF USE: COMMERCIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	04W	32					X	X	X	X	X	X							

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	04W	31	36.0	9.0		7.0													52.0
03N	04W	32							19.0	36.0	4.0								59.0

POU Total Acres: 111.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	04W	32						X	X										

Transfer No. 81050

WATER RIGHT NO. 57-2341
As Modified by Transfer No. 81050

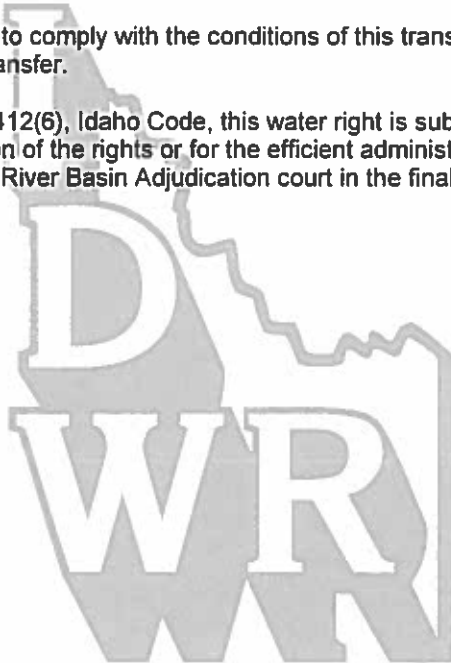
CONDITIONS OF APPROVAL

1. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.
2. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
3. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
4. The total instantaneous diversion of water from all points of diversion under Right 57-2341 shall not exceed 1.71 cfs, nor a total combined annual volume of 722.9 af.
5. 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.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
7. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. Use of this right for irrigation purposes is combined with water from Gem Irrigation District.
10. The place of commercial use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water diverted under this approval shall not be used for irrigation unless the water is first used in the dairy as authorized by this water right.
11. 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 or late irrigation use and a priority date earlier than February 2, 2002.
12. The diversion and use of water described in Transfer 71191 may be subject to additional conditions and limitations agreed to by the protestant and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

WATER RIGHT NO. 57-2341
As Modified by Transfer No. 81050

CONDITIONS OF APPROVAL

13. After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
14. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
15. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
16. 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 Water Right Transfer 81050

57-2341

This map depicts the POINTS OF DIVERSION for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

04W



0 0.125 0.25 0.5 Miles

- Point of Diversion
- ▭ Townships
- ▭ PLS Sections





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

December 29, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

NEDEREND FARMS LLLP
4998 HOGG RD
HOMEDALE ID 83628

Re: Transfer No: 81050
Water Right No(s): 57-2341

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,

A handwritten signature in black ink that reads "Rachel Neely for:". The signature is written in a cursive, flowing style.

Nick Miller
Western Regional Manager

Enclosure

CC:

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

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 81050
Water Right No(s): 57-2341**

**NEDEREND FARMS LLLP
4998 HOGG RD
HOMEDALE ID 83628**

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



**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.

The Owyhee Avalanche

P.O. Box 97 • HOMEDALE, ID 83628 • 208/337-4681

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED

AUG 26 2016

WATER RESOURCES
WESTERN REGION

I, Robert E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the president of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

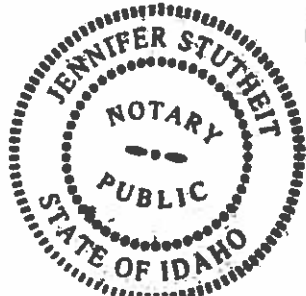
AUGUST 3, 10, 2016

SIGNED: _____

STATE OF IDAHO)
COUNTY OF OWYHEE)

On this 24th day of aug. in the year of 2016 before me, a

Notary Public, personally appeared ROBERT E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho

Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2021

THE FOLLOWING APPLICATIONS HAVE BEEN FILED TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO:
2-10530 DALE HURLEY, GAIL HURLEY, 9048 HWY 78, MEIABA, ID 83641
Point of Diversion NWSE/S36 T02N R04W OWYHEE County Source SNAKE RIVER Tributary COLUMBIA RIVER
Point of Diversion L3(SWSE) S36 T02N R04W OWYHEE County Source GROUND WATER
Use: DIVERSION TO STORAGE 01/01 to 12/31 0.03 CFS
Use: IRRIGATION FROM STORAGE 03/01 to 11/15 5 AF
Use: IRRIGATION STORAGE 03/01 to 11/15 5 AF
Use: WILDLIFE STORAGE 01/01 to 12/31 6.6 AF
Total Diversion: 0.03 CFS 11.6 AF
Date Filed: 6/20/2016
Places of Use: WILDLIFE STORAGE, IRRIGATION STORAGE, IRRIGATION FROM STORAGE
T02N R04W S36 SWSE
Total Acres: 1
NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81050, HAN'S NEDEREND JR FAMILY TRUST, 4998 HOGG RD, HOMEDALE, ID 83628; has filed Application No. 81050 for changes to the following water rights within OWYHEE County(s): Right No(s). 57-2341; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. Transfer proposes to drill up to two new wells on Nederend Farms dairy land and add POD's to water right 57-2341. Changes to delivery rate, volume and use are not included in the application.
Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer (s) please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of

✓ OK
R.D.
8/2

✓ OK
R.D.
8/29/16

before 8/22/2016. The protestant
must also send a copy of the
protest to the applicant.

GARY SPACKMAN,
Director

8/3,10/16

