

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81040**

This is to certify that: **RICHARD E SURMEIER**
5540 FINLEY RD
FRUITLAND, ID 83619

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>
65-23267	WR/DECREED	6/1/1954	0.460 cfs	89.1 af	N/A	19.8	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
65-12192A	WR/DECREED	6/5/1979	0.040 cfs	9.0 af		4.0	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>
65-23267	YES	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>
65-23267	65-23665	0.350 cfs	67.1 af	N/A	14.9	65-23267	0.110 cfs	22.0 af	N/A	4.9
COMBINED TOTALS		0.350 cfs	67.1 af	N/A	14.9		0.110 cfs	22.0 af	N/A	4.9

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 22nd day of December, 2016.



Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 65-23267

Transfer No. 81040

WATER RIGHT NO. 65-23267**As Modified by Transfer No. 81040**

In accordance with the approval of Transfer No. 81040, Water Right No. 65-23267 is now described as follows:

Right Holder: JIM V STOUT
PEGGY STOUT
5664 FINLEY RD
FRUITLAND, ID 83619

Priority Date: 6/1/1954

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

03/15

to

To

11/15

Diversion Rate

0.110 cfs

0.110 cfs

Diversion Volume

22.0 af

22.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER

NWSE

Sec 9 Twp 07N Rge 05W PAYETTE 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	
07N	05W	9															4.9		4.9

POU Total Acres: 4.9

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
2. 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 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 7/26/2002.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 81040

WATER RIGHT NO. 65-23267
As Modified by Transfer No. 81040

CONDITIONS OF APPROVAL

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



WATER RIGHT NO. 65-23665

As Modified by Transfer No. 81040

In accordance with the approval of Transfer No. 81040, Water Right No. 65-23665 is now described as follows:

Right Holder: RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND, ID 83619

Priority Date: 6/1/1954

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.350 cfs	67.1 af
			0.350 cfs	67.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWSE Sec 9 Twp 07N Rge 05W PAYETTE 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	
07N	05W	9															12.8	2.1	14.9

POU Total Acres: 14.9

CONDITIONS OF APPROVAL

1. Rights 65-12192A and 65-23665 when combined shall not exceed the irrigation of 14.9 acres.
2. 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.
3. 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.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. 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 7/26/2002.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 81040

WATER RIGHT NO. 65-23665
As Modified by Transfer No. 81040

CONDITIONS OF APPROVAL

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



WATER RIGHT NO. 65-12192A
As Modified by Transfer No. 81040

In accordance with the approval of Transfer No. 81040, Water Right No. 65-12192A is now described as follows:

Right Holder: RICHARD E SURMEIER
 5540 FINLEY RD
 FRUITLAND, ID 83619

Priority Date: 6/5/1979

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From 3/01 **To** 11/30

Diversion Rate
 0.040 cfs
 0.040 cfs

Diversion Volume
 9.0 af
 9.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SWNWSE Sec 9 Twp 07N Rge 05W PAYETTE 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	
07N	05W	9														4.0			4.0

POU Total Acres: 4.0

CONDITIONS OF APPROVAL

1. Rights 65-12192A and 65-23665 when combined shall not exceed the irrigation of 14.9 acres.
2. 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.
3. 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. 81040

State of Idaho
Department of Water Resources
Attachment to Water Right Transfer No. 81040

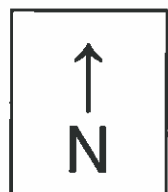
65-23665

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

07N



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



State of Idaho
Department of Water Resources
Attachment to Water Right Transfer No. 81040

65-23267

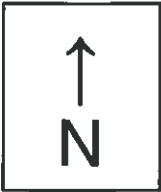
This map depicts the IRRIGATION place of use boundary for this Transfer at the time of this approval and is attached to the approval document solely for illustrative purposes.

07N

05W



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



6. GENERAL INFORMATION

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

Well with 10" case, submersible pump connected to sprinkling pipes.

- 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 _____ form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an _____
(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 _____ 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]
Signature of applicant or authorized agent

owner
Print name and title if applicable

9-3-16
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 _____ is available at www.idwr.idaho.gov. *Water Right Transfers, Step 4* and in the _____

FOR DEPARTMENT USE ONLY

Transfer includes 6 pages of attachments.

Received by CT

Date 9-3-16

Fee paid 500 Date 7-1-16

Received by WESTER

Receipt # W044375

Preliminary review by RS

Date 9-12-16

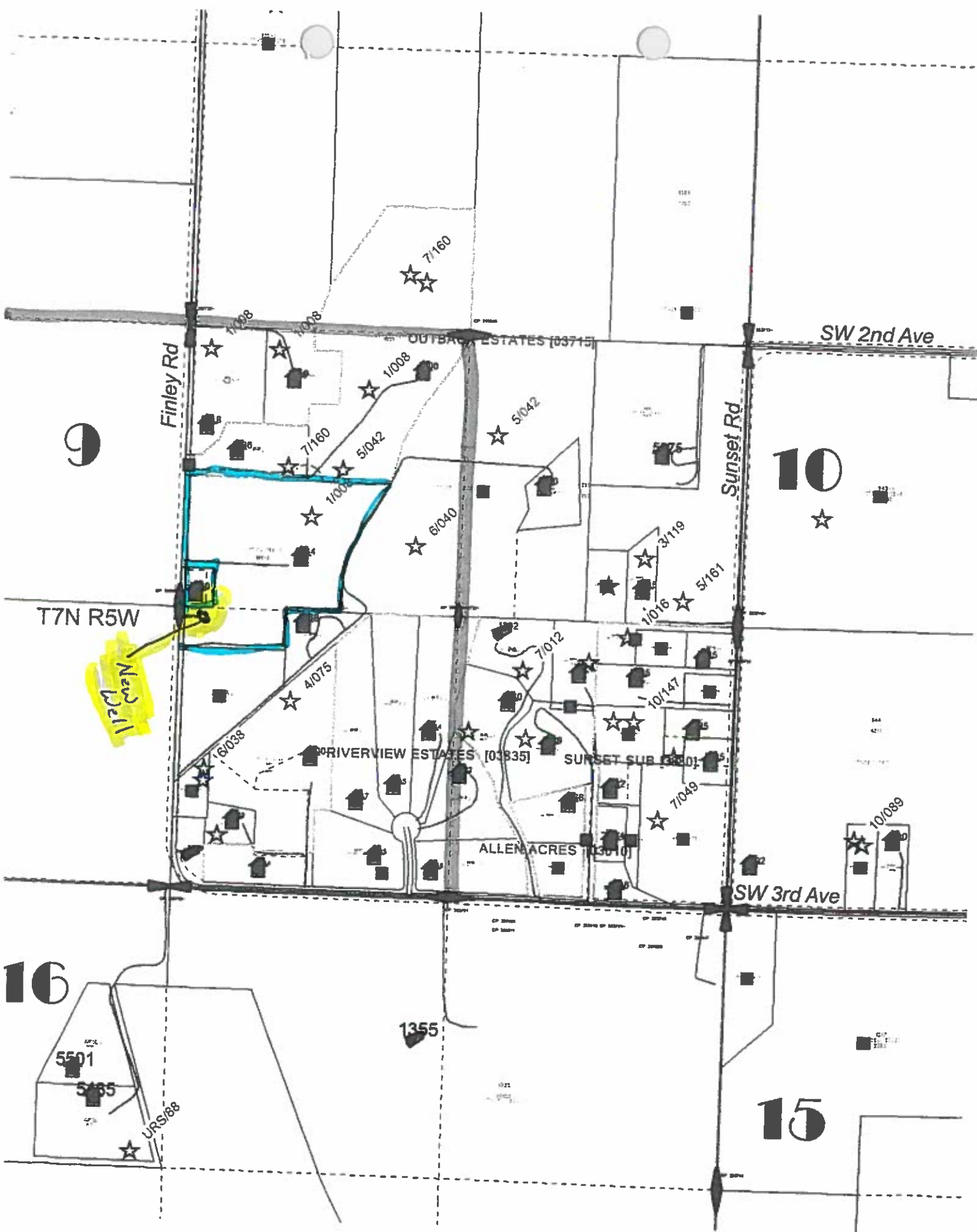
Active in the Water Supply Bank? Yes ☐ No ☒

W-9 received? Yes ☐ No ☒

Name on W-9 X

W-9 forwarded to fiscal? Yes ☐ No ☒

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



9

10

16

15

81040

This portion of 65-23267 to Surmeier



81040



Instrument # 397969
PAYETTE COUNTY
2016-08-13 02:01:14 PM No. of Pages: 2
Recorded for: AMERITITLE PAYETTE
BETTY J DRESSEN Fee: \$13.00
Ex-Officio Recorder Deputy Kathryn Johns
Index To: WARRANTY DEED
Electronically Recorded by Simplifile

WARRANTY DEED

Order No.:60263AM

FOR VALUE RECEIVED

Jim Stout and Peggy Stout, husband and wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Richard E. Surmeier and Connie L. Surmeier, husband and wife

whose current address is: 5540 Jivley Road, Fruitland, ID 83619

the grantee(s), the following described premises, in Payette County, Idaho, TO WIT:

A parcel of land situated within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 7 North, Range 5 West, Boise Meridian, Payette County, Idaho, being more particularly described as follows:

Beginning at the Southwest corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 9, Twp. 7 N., R. 5 W., B.M.;

thence N 0°09'00" W, a distance of 1.18 feet along the West line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 89°42'40" E, a distance of 159.20 feet;

thence N 0°16'13" W, a distance of 182.62 feet;

thence S 89°56'49" W, a distance of 158.82 feet to a point on the West line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 0°09'00" W, a distance of 438.63 feet along the West line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence S 89°53'00" E, parallel to the North line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$, a distance of 970.49 feet;

thence S 25°54'33" W, a distance of 93.60 feet;

thence S 32°55'40" W, a distance of 170.44 feet;

thence S 20°20'40" W, a distance of 211.56 feet;

thence S 1°20'40" E, a distance of 159.57 feet;

thence S 17°31'40" W, a distance of 38.47 feet to a point on the South line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ (North line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 9, Twp. 7 N., R. 5 W., B.M.);

thence N 89°56'44" W, a distance of 250.4 feet along the North line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence S 0°09'00" E, 190 feet;

thence N 89°56'44" W, 503.52 feet to a point on the Westerly boundary of said SW $\frac{1}{4}$ SE $\frac{1}{4}$;

thence N 0°09'00" W, a distance of 190.00 feet along the West line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ to the Point of Beginning.

81040

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: August 12, 2015

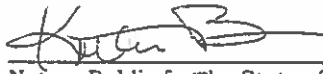

 Jim Stout

 Peggy Stout

State of Idaho } ss
 County of Payette)

On this 12th day of August, 2015, before me, a Notary Public in and for said state, personally appeared Jim Stout and Peggy Stout, known or identified to me to be the persons whose names are subscribed to the within Instrument and acknowledged to me that they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


 Notary Public for the State of Idaho
 Residing at:
 Commission Expires: RESIDING AT EMMETT, ID
 MY COMM. EXPIRES MAY 4, 2016



Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 65-23267

Current Owner: JIM V STOUT
PEGGY STOUT

Priority Date: 6/1/1954

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.46 CFS	89.1 AF
	<u>Total Diversion</u>	0.46 CFS	89.1 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SE1/4	Sec. 9,	Twp 07N,	Rge 05W B.M.
PAYETTE County				

Place of Use

IRRIGATION Within PAYETTE County

T07N R05W S9	NWSE	12.80	T07N R05W S9	SWSE	7.00
Total Acres: 19.8					

Page _____ of _____

Conditions of Approval:

1. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
2. T19 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
3. 01M 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.
4. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. R65 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. X61 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 7/26/2002.
7. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Decreed Date: 7/26/2002

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:

10 in case, submersible pump connected to sprinkling pipes

- b. Who owns the property at the point(s) of diversion? Richard E Surmeier
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]
Signature of applicant or authorized agent

Richard E Surmeier
Print name and title if applicable

6-29-16
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

ADDITIONAL FEE OF 125 SUBMITTED WITH D.C. ON 8-27-15. # W043444.

Transfer includes 4 pages of attachments. Received by CJ Date 7/1/16
Fee paid \$500 Date 7/1/16 Receipted by CJ Receipt # W044375
Preliminary review by MS Date 8-4-16 Active in the Water Supply Bank? Yes ☐ No ☒
W-9 received? Yes ☐ No ☒ Name on W-9 X 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

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

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

December 22, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619

Re: Transfer No: 81040
Water Right No(s): 65-12192A , 65-23267

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.

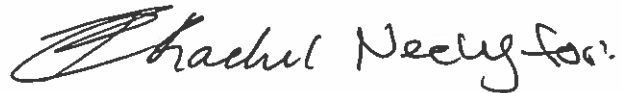
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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, appearing to read "Nick Miller". The signature is fluid and cursive, with the first name "Nick" being more prominent and the last name "Miller" following in a similar style.

Nick Miller

Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 81040
Water Right No(s): 65-12192A , 65-23267

RICHARD E SURMEIER
5540 FINLEY RD
FRUITLAND ID 83619



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. 81040
FROM: Rachel Sommer
DATE: November 23, 2016
RE: Evaluation of Application

Summary of Application Proposal

The two following items are proposals to be met following a transfer approval in the name of Richard Surmeier.

1. Split off 14.9 acres of water rights from right 65-23267 to reflect the portion appurtenant to Surmeier's property.
 - a. The original owner will maintain right no. 65-23267. The applicant will be assigned right no. 65-23665.
2. Change the point of diversion (POD) by adding a new well on Surmeier's property.

Location of Application Proposal

The proposal is located at 5664 Finley Rd, between Whitley Dr and SW 3rd Ave in Fruitland Id.

Summary of Information Submitted

Authority to File:

The property was purchased from Jim and Peggy Stout by Richard and Connie Surmeier as described in the *Warranty Deed* provided. An ownership change with correct fees was submitted with the transfer to split the water right associated to this transfer.

Water Right Validity:

Right 65-23267 was decreed in the SRBA. This right has been beneficially used based on historical imagery.

Overlapping POU/POD:

POU overlap - Right 65-12192A

Right 65-12192A is appurtenant to the applicant's property. The applicant does not intend to change the POD for this right. It was requested an ownership change be submitted for right 65-12192A so the associated right could be added in addition to combined use limitations. The applicant submitted the ownership change along with an amended application on September 9, 2016. The associated right will be added and to ensure no enlargements will take place, combined use limitations will be added on rights 65-12192A and 65-23665.

Right 65-12702 has a POU shape attached to the NWSE QTR-QTR of Section 9; though this is not an overlapping right. The two acre right is appurtenant to the land owner just north of the applicant's property.

POD overlap - None.

Injury to Other Water Rights:

There should be no injury to other water rights under this transfer as long as the new right holder abides by the amount of water that is appurtenant to this property.

Enlargement of Use:

No enlargement should occur under the proposed transfer application. That application proposes to change the diversion points and no new irrigation water is sought under the proposal.

Local Public Interest:

It is within the local public interest to allow property owners to develop their property as long as the application is processed without issues.

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.

Beneficial Use/Conservation of Water Resources:

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

Summary of Application Approval / Denial

The application is consistent with criteria of I. C. § 42-222 and should be processed. Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Sommer, Rachel

From: Sommer, Rachel
Sent: Monday, August 08, 2016 12:13 PM
To: 'Rick Surmeier'
Subject: RE: 81040 Transfer Application
Attachments: Notice of Change in Water Right Ownership.pdf; Application for Transfer - POD.pdf

Thank you for clarifying that for me.

Attached are two draft applications I have created for you.

1. Ownership change form for WR No. 65-12192A for an irrigation right. Please sign, date and submit the form to our office with a payment of \$25. This will need to be processed simultaneously with your transfer No. 81040 so that combined use limits and conditions may be placed on your portion of WR No. 65-23267 and on WR No. 65-12192A.
2. Updated transfer form. Please review the changes made, complete #5, sign, date and submit this form to our office. No additional fees are due with this application.

Please let me know if you have questions.

Rachel Sommer

From: Rick Surmeier [<mailto:rsurmeier@fmtc.com>]
Sent: Monday, August 08, 2016 12:01 PM
To: Sommer, Rachel
Subject: Re: 81040 Transfer Application

Hi Rachel,
New well for irr. only.

Rick

From: "Sommer, Rachel" <Rachel.Sommer@idwr.idaho.gov>
To: rsurmeier@fmtc.com
Sent: Monday, August 8, 2016 11:49:14 AM
Subject: FW: 81040 Transfer Application

Hi Richard,

I have a question following our conversation this morning. Will the point of diversion (POD) for the domestic water right (65-20640) connect to the new POD you are applying for?

Rachel Sommer

From: Sommer, Rachel
Sent: Friday, August 05, 2016 11:02 AM
To: 'rsurmeier@fmtc.com'
Subject: 81040 Transfer Application

Good Morning Richard,

I left you a voice message at 208-452-5616 this morning. When you have a chance please call me so we may discuss your transfer application.

Thank you.

Rachel Sommer | Water Resource Agent
Idaho Dept. of Water Resources | Western Regional Office
208.334.2190 | 2735 Airport Way, Boise ID 83705