

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81129

This is to certify that: FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN, ID 83332

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>
36-11142	WR/DECREED	3/8/1902	1.580 cfs	N/A	N/A	18.7	WEATHERBY SPRINGS
36-30	WR/DECREED	9/1/1889	8.000 cfs	N/A	N/A	131.7	LEN LEWIS SPRING

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>
36-11142	NO	YES	YES	NO	NO	NO
36-30	NO	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>
36-11142	36-11142	1.580 cfs	N/A	18.7	264.6	N/A	N/A	N/A	N/A	N/A
36-30	36-30	8.000 cfs	N/A	131.7	264.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		9.580 cfs	N/A	150.4	264.6		N/A	N/A	N/A	N/A

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

Dated this 15th day of December, 2016.


Southern Region Manager

SUPPORT DATA
IN FILE # 36-30

Transfer No. 81129

WATER RIGHT NO. 36-30**As Modified by Transfer No. 81129**

In accordance with the approval of Transfer No. 81129, Water Right No. 36-30 is now described as follows:

Right Holder: FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN, ID 83332

Priority Date: 9/1/1889

Source: LEN LEWIS SPRING

Tributary: RILEY CREEK

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

2/15
1/01

To

to 11/30
to 12/31

Diversion Rate

8.000 cfs
0.140 cfs
8.000 cfs

LOCATION OF POINT(S) OF DIVERSION

LEN LEWIS SPRING SESWNE Sec 6 Twp 08S Rge 14E GOODING County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	25						40.0	39.1										79.1
07S	13E	26	40.1	14.9	24.4	40.0									40.0	26.1			185.5

Right Acre Limit: 131.7

POU Total Acres: 264.6

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	25						X	X										
07S	13E	26	X	X	X	X									X	X			

CONDITIONS OF APPROVAL

1. The appropriator is entitled to the quantity of water described for stock water purposes at a point of measurement where the delivery ditch enters the place of use described. Use of this right with rights 36-12; 36-43A; 36-84; 36-104A and 36-104B for stockwater or other non-irrigation purposes outside of the irrigation season shall be limited to a total combined diversion rate of 4.0 cfs.
2. The operation and administration of this water right is also subject to the stipulation dated September 11, 1996, among the United States of America and the claimants under the Brailsford Ditch, which is on file in the records of the clerk and recorder, Gooding Co., Idaho.

Transfer No. 81129

WATER RIGHT NO. 36-30
As Modified by Transfer No. 81129

CONDITIONS OF APPROVAL

3. Water is delivered through the Brailsford Ditch.
4. Use of water under this right will 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. 36A.
5. 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.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
7. This right is limited to the irrigation of 131.7 acres within the authorized place of use in a single irrigation season.
8. This right is limited to the irrigation of a specific 131.7 within the 264.6 acre place of use authorized by this right in a single irrigation season. The specific 131.7 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 131.7 acres to be irrigated within the 264.6 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 36-11142**As Modified by Transfer No. 81129**

In accordance with the approval of Transfer No. 81129, Water Right No. 36-11142 is now described as follows:

Right Holder: FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN, ID 83332

Priority Date: 3/8/1902

Source: WEATHERBY SPRINGS

Tributary: BILLINGSLEY CREEK

BENEFICIAL USE

	From	To	Diversion Rate
IRRIGATION	02/15	to 11/30	1.580 cfs
STOCKWATER	02/15	to 11/30	0.140 cfs
STOCKWATER	12/01	to 02/14	0.220 cfs
			1.580 cfs

LOCATION OF POINT(S) OF DIVERSION

WEATHERBY SPRINGS SENESW Sec 30 Twp 07S Rge 14E GOODING 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	
07S	13E	25						40.0	39.1										79.1
07S	13E	26	40.1	14.9	24.4	40.0									40.0	26.1			185.5

Right Acre Limit: 18.7

POU Total Acres: 264.6

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	
07S	13E	25						X	X										
07S	13E	26	X	X	X	X									X	X			

CONDITIONS OF APPROVAL

1. Use of water under this right will 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. 36A.

Transfer No. 81129

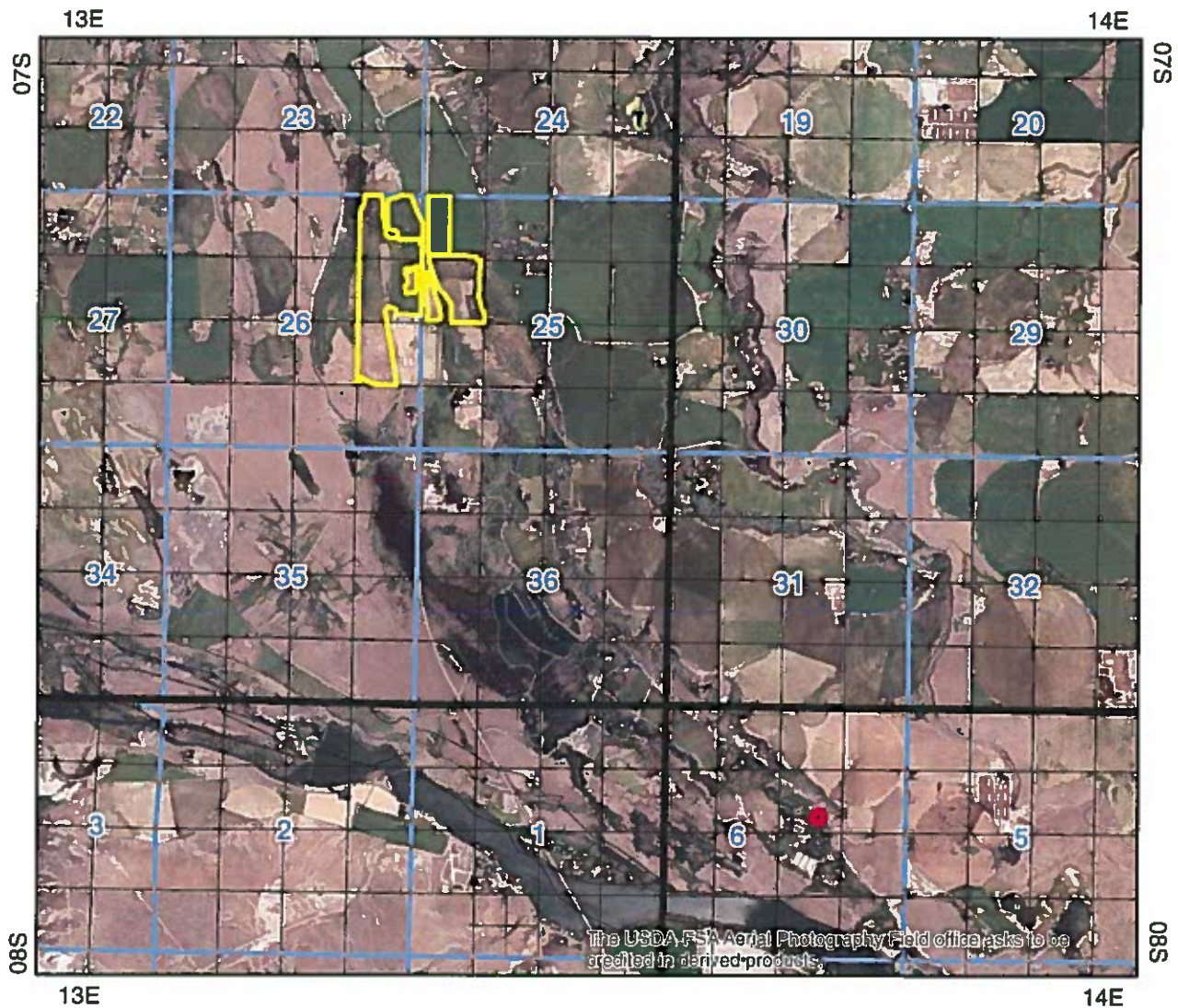
WATER RIGHT NO. 36-11142
As Modified by Transfer No. 81129

CONDITIONS OF APPROVAL

2. 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.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. This right is limited to the irrigation of 18.7 acres within the authorized place of use in a single irrigation season.
5. This right is limited to the irrigation of a specific 18.7 acres within the 264.6 acre place of use authorized by this right in a single irrigation season. The specific 18.7 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 18.7 acres to be irrigated within the 264.6 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
6. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
7. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
8. Water is delivered through the Bar S Pipeline, Curren Ditch and North Pipeline.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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 # 81129
36-30

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.



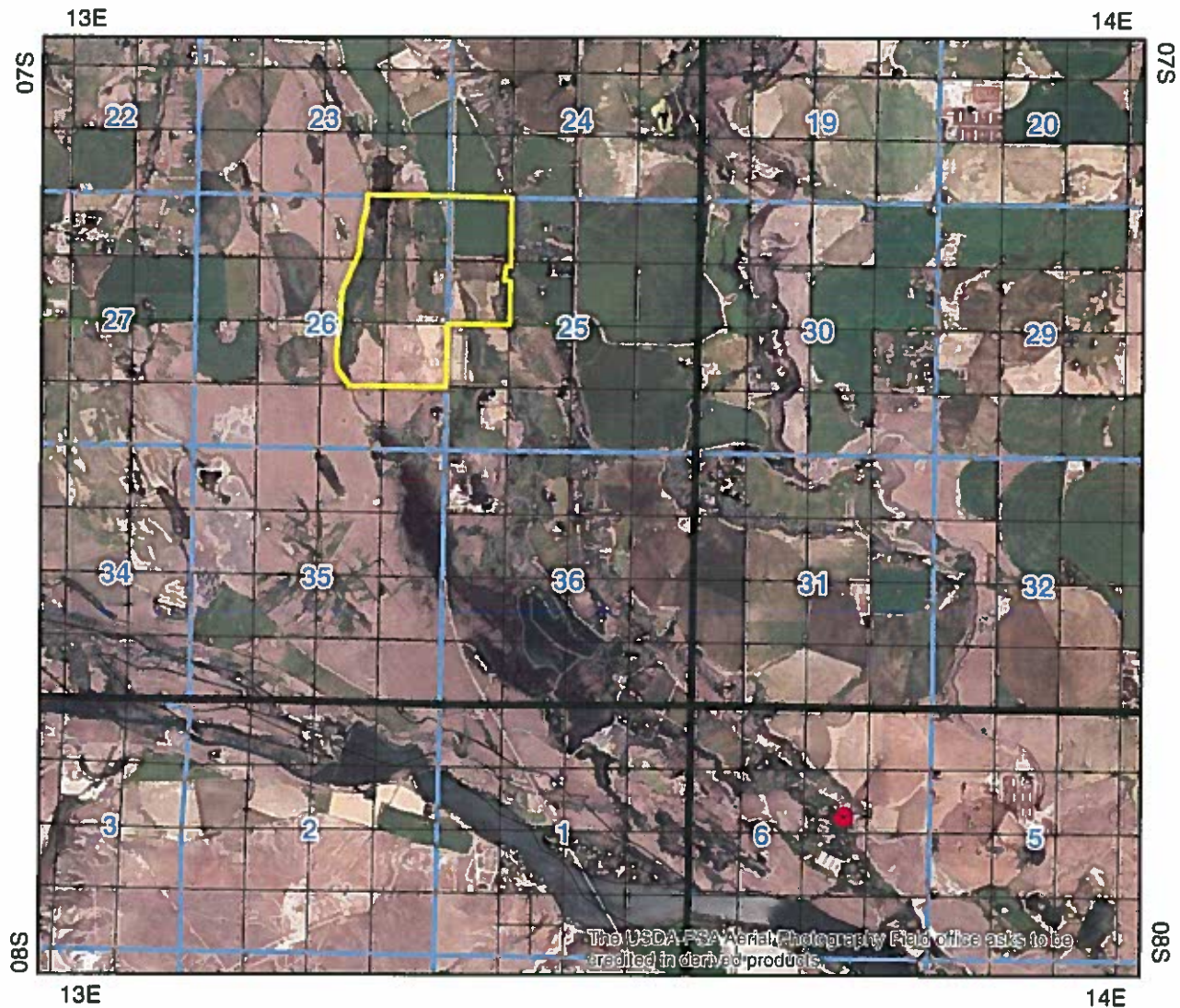
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.45 0.9 1.8 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 81129
36-30

This map depicts the STOCKWATER 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.



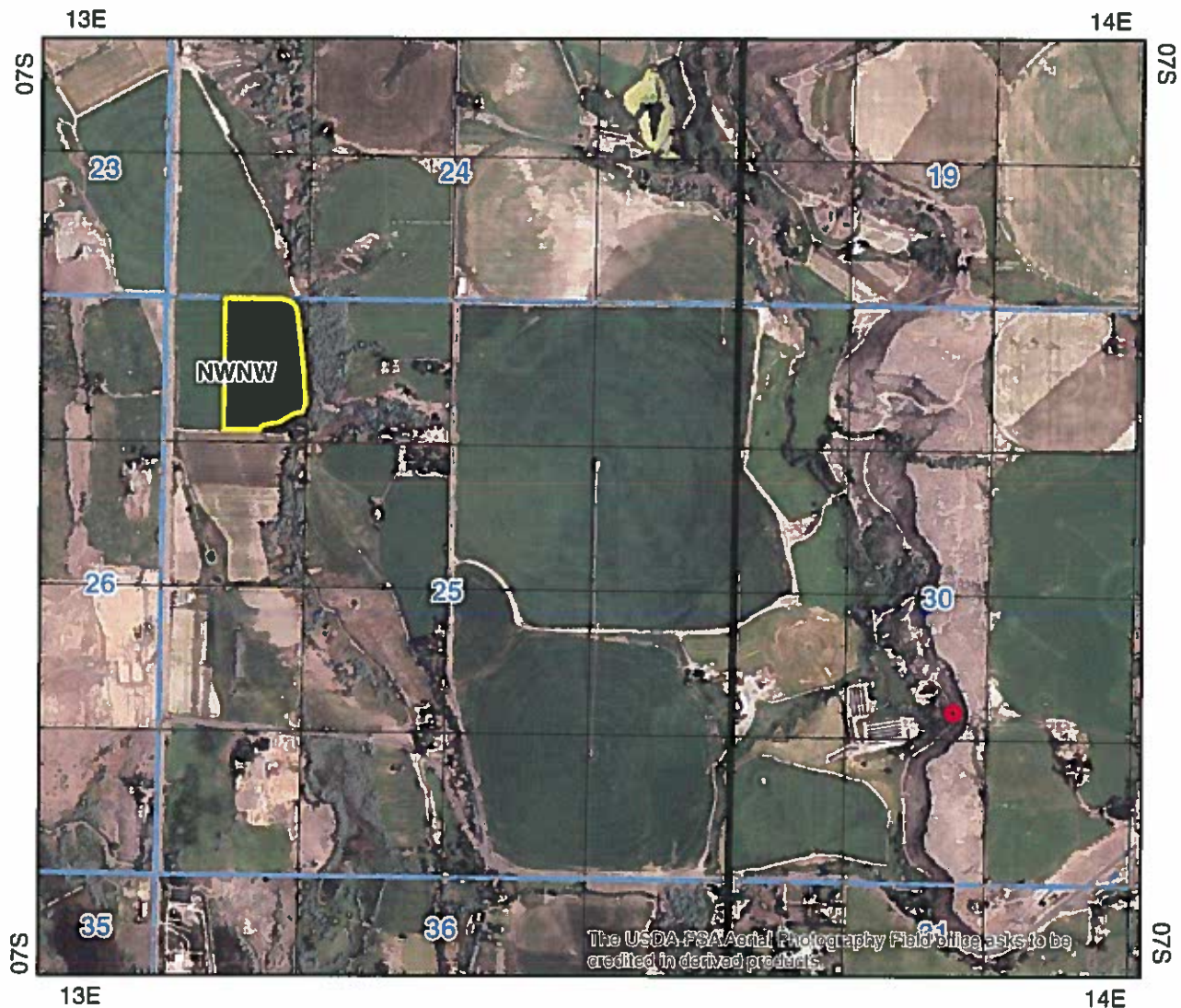
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.45 0.9 1.8 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 81129
36-11142

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.



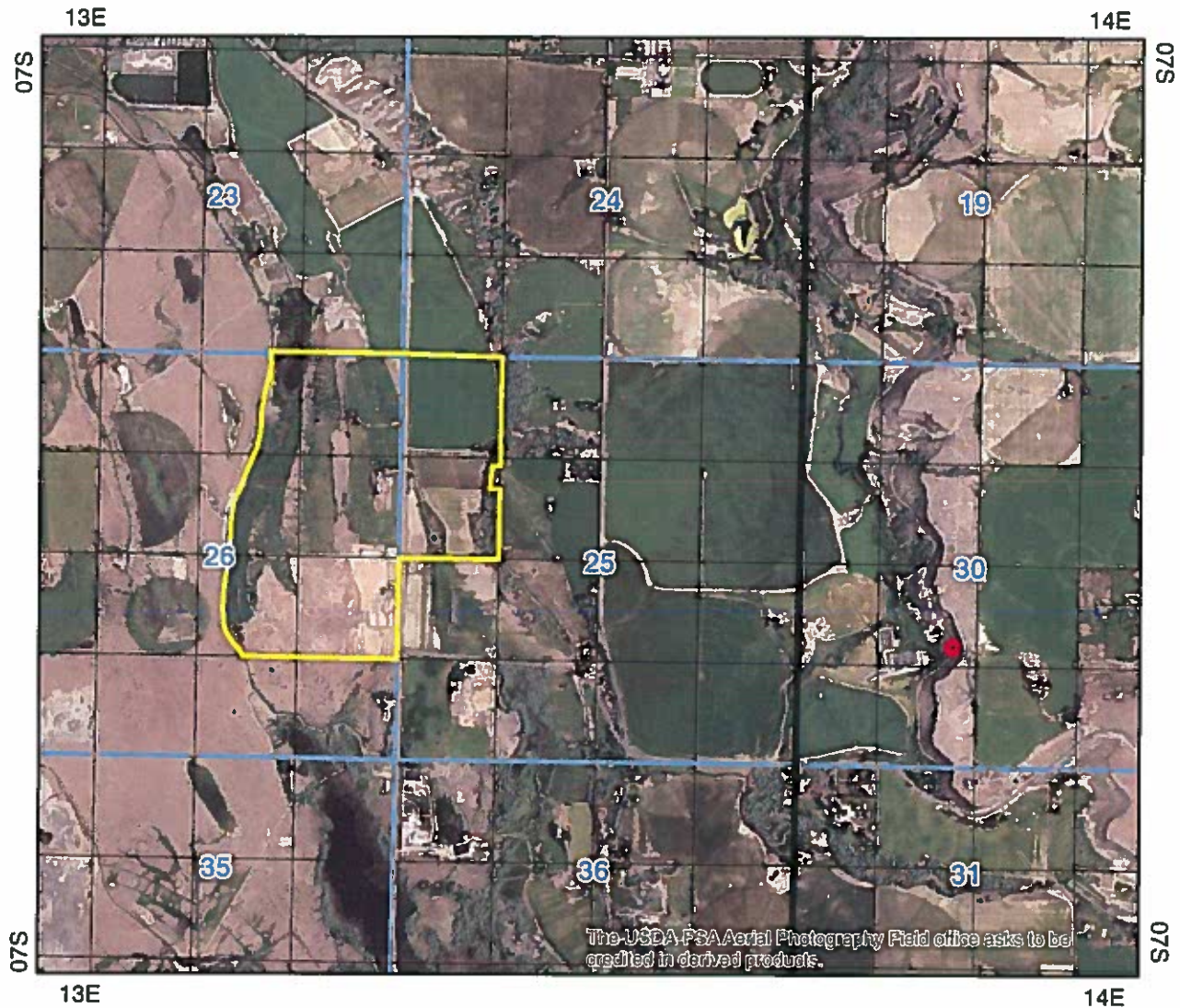
- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections

0 0.2 0.4 0.8 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer # 81129
36-11142

This map depicts the STOCKWATER 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
- Townships
- PLS Sections

0 0.275 0.55 1.1 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

December 16, 2016

FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN ID 83332

Re: Transfer No: 81129
Water Right No(s): 36-30, 36-11142

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 a prominent "C" and "S".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

FRANK ERWIN WATER MASTER
WATER DISTRICT 36A
711 E AVE N
HAGERMAN ID 83332

CERTIFICATE OF SERVICE

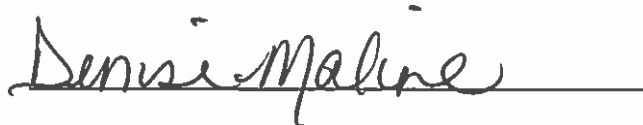
I hereby certify that on December 16, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 81129
Water Right No(s): 36-30, 36-11142**

**FLYING TRIANGLE INC
C/O WILLIAM N BRAILSFORD
PO BOX 180
HAGERMAN ID 83332**

**BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

**FRANK ERWIN WATER MASTER
WATER DISTRICT 36A
711 E AVE N
HAGERMAN ID 83332**

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid horizontal line.

**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.

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

RECEIVED

SEP 23 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

Transfer Application No.: 81129

Water Right No(s): 36-30, 36-11142

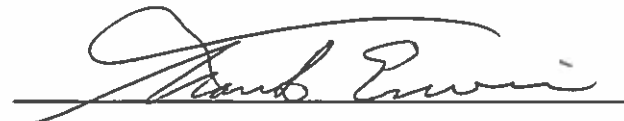
Transfer Applicant's Name: FLYING TRIANGLE INC
PO BOX 180
HAGERMAN, ID 83332

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 20th day of September, 2016

Water District No. 36A



Water master's Signature

Frank Erwin

Printed Name