

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 80191**

This is to certify that: **TRINITY ACQUISITIONS LLC**
1114 STATE ST STE 310
SANTA BARBARA, CA 93101

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>
63-11439	WR/LICENSE	2/22/1991	1.000 cfs	12.6 af	N/A	N/A	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>
63-11439	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>
63-11439	63-11439	1.000 cfs	12.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.000 cfs	12.6 af	N/A	N/A		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 10th day of March, 2016.



Chief, Water Allocation Bureau

Transfer No. 80191

WATER RIGHT NO. 63-11439
As Modified by Transfer No. 80191

In accordance with the approval of Transfer No. 80191, Water Right No. 63-11439 is now described as follows:

Right Holder: TRINITY ACQUISITIONS LLC
 1114 STATE ST STE 310
 SANTA BARBARA, CA 93101

Priority Date: 2/22/1991

Source: SPRING **Tributary:** SOUTH FORK BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	01/01	to 12/31	1.000 cfs	12.6 af
			1.000 cfs	12.6 af

LOCATION OF POINT(S) OF DIVERSION

SPRING	NWSENE	Sec 5	Twp 02N Rge 10E	ELMORE County
SPRING	NWSENE	Sec 5	Twp 02N Rge 10E	ELMORE County
SPRING	NWSENE	Sec 5	Twp 02N Rge 10E	ELMORE County
SPRING	L4 (NESWNE)	Sec 5	Twp 02N Rge 10E	ELMORE 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	
02N	10E	5				X													

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Water may be diverted under this right only (a) during periods when Lucky Peak Reservoir is spilling flood flows, or (b) as an exchange when an equivalent amount is provided by other sources, such as storage water.
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. 63.
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(s).

Transfer No. 80191

WATER RIGHT NO. 63-11439
As Modified by Transfer No. 80191

CONDITIONS OF APPROVAL

6. The Department retains jurisdiction of this license to require the submittal of additional flow measurements or information as determined necessary to evaluate the adequacy of the exchange agreement.
7. Commercial use is for bottling water for commercial sale and distribution.
8. The following rights are diverted through the three point(s) of diversion located in the NWSENE Section 5, T02N, R10E described above: 63-8206, 63-11051, 63-11053, and 63-11439.



State of Idaho
Department of Water Resources

Attachment to Application for Transfer 80191

63-11439

This map depicts the COMMERCIAL 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.

10E



Point of Diversion



Place Of Use Boundary



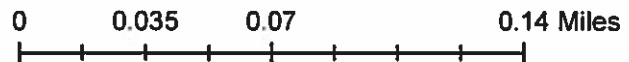
Townships



PLS Sections



Quarter Quarters





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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 10, 2016

TRINITY ACQUISITIONS LLC
1114 STATE ST STE 310
SANTA BARBARA CA 93101

Re: Transfer No: 80191
Water Right No(s): 63-11439

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 Neely for:

Nick Miller
Western Regional Manager

Enclosure

CC:

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

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 80191
Water Right No(s): 63-11439**

**TRINITY ACQUISITIONS LLC
1114 STATE ST STE 310
SANTA BARBARA CA 93101**

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

**REX R. BARRIE
WATERMASTER OF DISTRICT 63
10769 W STATE ST
PO BOX 767
STAR ID 83669**



**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. 80191
FROM: Angie Grimm
DATE: 3/9/2016
RE: Evaluation of Application

The transfer proposes to add a point of diversion known as Bridge Spring for right 63-11439 which currently authorizes diversion from three springs known as Landa Springs #1, #2, and #3. The new point of diversion spring is also tributary to the South Fork of the Boise River.

The site is generally located off the east side of N Pine-Featherville Rd (FH 61), just southwest of Paradise Hot Springs, approximately 1.25 miles southwest of the confluence of Grouse Creek and South Fork of Boise River, 5 miles north of Pine.

Contact person for the applicant is Zach Latham, Brockway Engineering PLLC .

Summary of Information Submitted

Authority to File: The transfer applicant Trinity Acquisitions LLC is the current water right owner of record for water right 63-11439.

Water Right Validity: Right presumed to be valid based on license issued within the past five year period. SRBA is not applicable to this right developed after 1987.

Injury to Other Water Rights: Applicant proposes to add a point of diversion (known as Bridge Spring) to their existing spring diversion system for their commercial water bottling operation. The new point of diversion is closer to the South Fork of the Boise River than the existing points of diversion. There are no water rights with authorized points of diversion between the proposed point of diversion and the South Fork of the Boise River. Injury is not likely to occur provided no enlargement occurs.

Enlargement of Use: Applicant proposes to add a point of diversion to their existing system. The do not propose to increase the diversion rate, diversion volume or consumptive use volume associated with this right. No enlargement is likely to occur provided diversions from the new point of diversion in combination with existing points of diversion are limited to the rate and volume limitations of the water right.

Local Public Interest: Allowing the applicant to develop use from a spring on the applicant's property for an existing water bottling plant is a locally accepted use that does not conflict with the local public interest.

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.

Additional Information/Analysis

I.C. § 42-222 does not authorize a change in source. The applicant's consultant provided additional information, at the Department's request, to demonstrate the proposed point of diversion (known as Bridge Spring) is the same source as the existing points of diversion (known as Landa Spring #1, #2 and #3) for right 63-11439. The information provided demonstrates water from Bridge Spring is the same temperature and of similar pH, redox potential, and total dissolved solids concentration as water from the Landa Springs. Based on this information, it is reasonable to assume the proposed point of diversion will likely divert water from the same source as the existing points of diversion.

Watermaster comments were sought from Bs 63 Watermaster Rex Berrie during the publication period. An email response was received 1/15/16 indicating the watermaster has no objections to this transfer.

Discussion

Data entry affected the water right license record for 63-11439, which is the current record for the right.

The existing points of diversion for 63-11439 are also used as points of diversion for rights 63-8206, 63-11051, and 63-11053 owned by the applicant. These rights are diverted from the same existing points of diversion via different diversion works/system per beneficial use field report of 63-11439. Therefore, these three rights do not need to be in the transfer process. However, a modified version of condition F06 is recommended in the draft transfer approval to identify the three spring points of diversion that are used by all four rights. There are no rights authorizing diversion from the proposed point of diversion. No changes the place of use for right 63-11439 are proposed.

Right 63-11439 currently has a modified version of condition R43 stating upon notification, the right holder must maintain a measuring device and lockable controlling works. The draft approval for this transfer includes the standard version of condition R43 requiring a measuring device and lockable controlling works, based on approval condition usage description, policy, and to be consistent with the expansion of water district regulation above Lucky Peak.

Summary

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.

Neely, Rachel

From: Rex Barrie [waterdistrict63@qwestoffice.net]
Sent: Friday, January 15, 2016 7:02 AM
To: Neely, Rachel
Subject: RE: Application for Transfer No. 80191

Rachel,

I have no objections to this Transfer No. 80191

Rex R. Barrie
Boise River Watermaster

From: Neely, Rachel [mailto:Rachel.Neely@idwr.idaho.gov]
Sent: Thursday, January 14, 2016 9:04 AM
To: waterdistrict63@qwestoffice.net
Subject: Application for Transfer No. 80191

January 14, 2016

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Transfer No. 80191

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete a recommendation form, and submit your reply, if any, to this office by February 8, 2016.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

AFFIDAVIT OF PUBLICATION

County of Elmore
State of Idaho

} ss.

I, **Brenda M. Fincher**, do solemnly swear that I am the
Publisher of the:

Mountain Home News

A weekly newspaper of general circulation, published once a week, in Mountain Home, Idaho, that the notice attached hereto which is a part of publication thereof; was published in said newspaper for 2 consecutive weeks, the first publication having been made on the 20th day of Jan, 2016, and the last publication having been made on the 27th day of Jan, 2016; every Wednesday issue of the paper during the period and time of publication and that the notice was published in the paper proper and not in a supplement thereof.

And I further swear that the said Mountain Home News has been continuously and uninterruptedly published in said Elmore County during the period of 78 consecutive weeks prior to the first publication of the attached notice.

Brenda M Fincher
Publisher

Subscribed and sworn to me this 28th day of Jan, 2016.

[Signature]
Notary Public

Residing in Mountain Home, Elmore County, Idaho.

My commission expires 11-17-2017.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 80191

Trinity Aquisitions LLC, of 1114 State St STE 310, Santa Barbara, CA, 93101, has filed transfer application no. 80191 to add one additional point of diversion to water right no. 63-11439. New diversion point is a spring source tributary to the South Fork of the Boise River, located in Gov Lt. 4, NESWNE of Sec. 5 T02N R10E. General location is 4 miles NNE of Pine ID. Priority date of right no. 63-11439 is 2/22/1991. No other changes proposed. To see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx

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 § 42-222. Any protest against the proposed change(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 \$25.00 for each application on or before 2/8/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
First Publication: January 20, 2016
Last Publication: January 27, 2016

VOR
RU
2/11/14

RECEIVED

FEB 01 2016

WATER RESOURCES
WESTERN REGION

