

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 79846**

This is to certify that: **HIGH PLAINS DAIRY LLC**
PO BOX 780
CASTLEFORD, ID 83321

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>
51-7373	WR/DECREED	10/25/1951	0.570 cfs	135.0 af	N/A	N/A	GROUND WATER
51-7374	WR/DECREED	11/21/1960	0.470 cfs	111.0 af	N/A	N/A	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>
51-7373	NO	YES	YES	NO	NO	NO
51-7374	NO	YES	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>
51-7373	51-7373	0.570 cfs	135.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
51-7374	51-7374	0.470 cfs	111.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.040 cfs	171.0 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 13th day of November, 2015.



for Chief, Water Allocation Bureau

SUPPORT DATA

IN FILE # 51-7373

Transfer No. 79846

WATER RIGHT NO. 51-7373
As Modified by Transfer No. 79846

In accordance with the approval of Transfer No. 79846, Water Right No. 51-7373 is now described as follows:

Right Holder: HIGH PLAINS DAIRY LLC
 PO BOX 780
 CASTLEFORD, ID 83321

Priority Date: 10/25/1951

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	01/01	to 12/31	0.570 cfs	135.0 af
STOCKWATER	01/01	to 12/31	0.570 cfs	135.0 af
			0.570 cfs	135.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESESW	Sec 1	Twp 10S Rge 12E	TWIN FALLS County
GROUND WATER	SESESW	Sec 1	Twp 10S Rge 12E	TWIN FALLS County

PLACE OF USE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	12E	1									X			X		X	X		

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	
10S	12E	1									X			X		X	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. Prior to diversion and use 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.

Transfer No. 79846

WATER RIGHT NO. 51-7373
As Modified by Transfer No. 79846

CONDITIONS OF APPROVAL

4. 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.
5. Rights 51-7373 and 51-7374 when combined shall not exceed a total annual maximum diversion volume of 171.0 af.
6. The commercial place of use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water may also be applied for irrigation purposes to satisfy water quality requirements on lands not owned by the right holder in Sections 35 and 36, T9S, R12E, and Section 1 and 2, T10S, R12E. Water diverted under this approval shall not be used for irrigation unless the water is first used in the dairy as authorized by these water rights.
7. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
8. This right does not grant any right-of-way or easement across the land of another.

WATER RIGHT NO. 51-7374**As Modified by Transfer No. 79846**

In accordance with the approval of Transfer No. 79846, Water Right No. 51-7374 is now described as follows:

Right Holder: HIGH PLAINS DAIRY LLC
PO BOX 780
CASTLEFORD, ID 83321

Priority Date: 11/22/1960

Source: GROUND WATER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
COMMERCIAL	1/01	to 12/31	0.470 cfs	111.0 af
STOCKWATER	1/01	to 12/31	0.470 cfs	111.0 af
			0.470 cfs	111.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESESW	Sec 1	Twp 10S Rge 12E	TWIN FALLS County
GROUND WATER	SESESW	Sec 1	Twp 10S Rge 12E	TWIN FALLS County

PLACE OF USE: COMMERCIAL

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	12E	1									X			X		X	X		

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	
10S	12E	1									X			X		X	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. Prior to diversion and use 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.

Transfer No. 79846

WATER RIGHT NO. 51-7374
As Modified by Transfer No. 79846

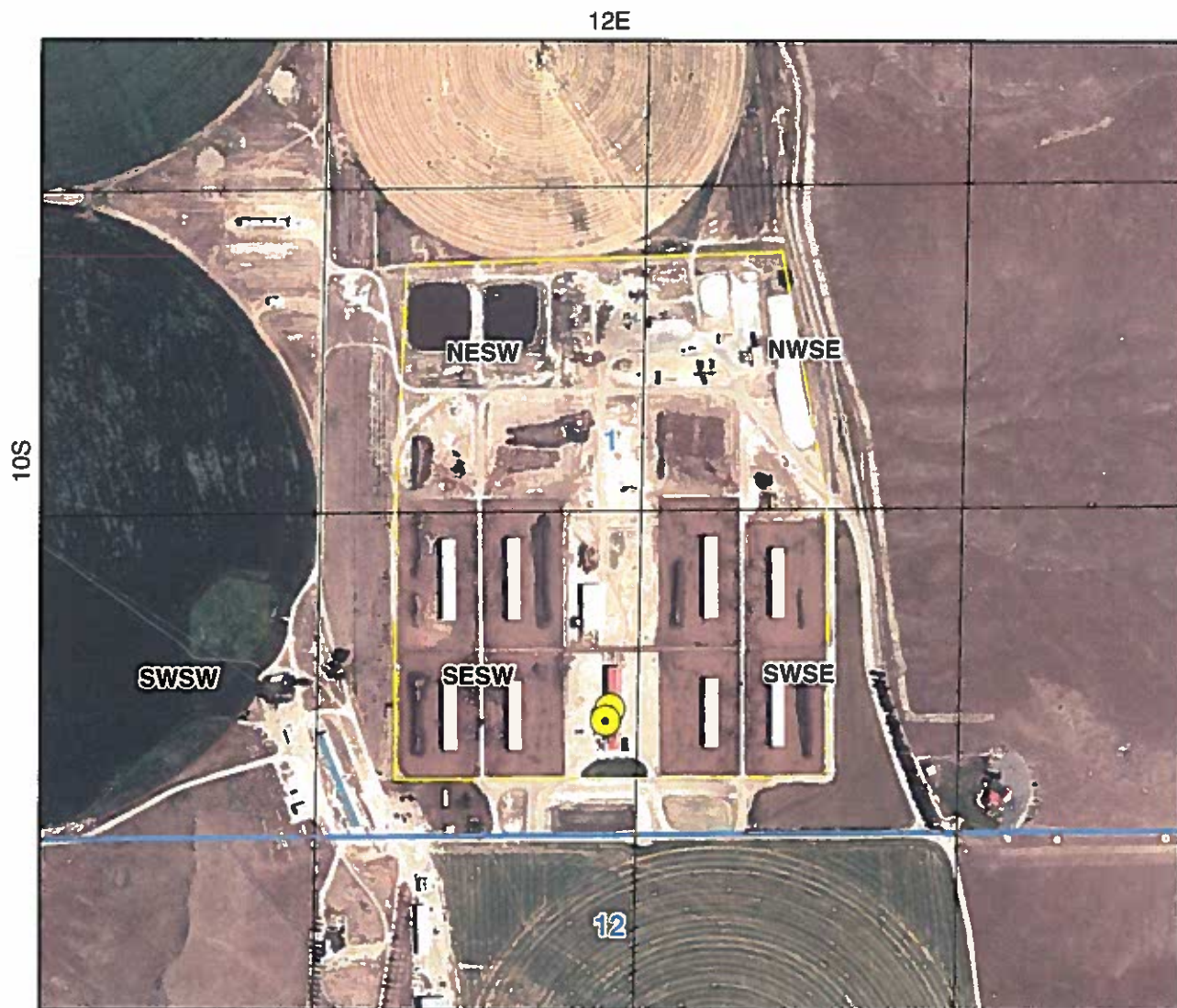
CONDITIONS OF APPROVAL

4. 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.
5. Rights 51-7373 and 51-7374 when combined shall not exceed a total annual maximum diversion volume of 171.0 af.
6. The commercial place of use authorized by this approval includes land upon which wastewater may be applied for irrigation purposes to satisfy water quality requirements. Water may be applied for irrigation purposes to satisfy water quality requirements on lands not owned by the right holder in Sections 35 and 36, T9S, R12E, and Section 1 and 2, T10S, R12E. Water diverted under this approval shall not be used for irrigation unless the water is first used in the industrial facility as authorized by these water rights.
7. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
8. This right does not grant any right-of-way or easement across the land of another.

State of Idaho
Department of Water Resources
Attachment to Transfer No. 79846

51-7373, 51-7374

This map depicts the STOCKWATER and 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.



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

0 0.075 0.15 0.3 Miles





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

November 16, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

HIGH PLAINS DAIRY LLC
PO BOX 780
CASTLEFORD ID 83321

Re: Transfer No: 79846
Water Right No(s): 51-7373, 51-7374

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.

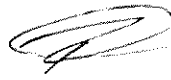
If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office 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 Region Manager

Enclosure

CC:

BARKER ROSHOLT SIMPSON LLP
ATTN PAUL L ARRINGTON
195 RIVER VISTA PL STE 204
TWIN FALLS ID 83301-3029

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 79846
Water Right No(s): 51-7373, 51-7374

HIGH PLAINS DAIRY LLC
PO BOX 780
CASTLEFORD ID 83321

BARKER ROSHOLT SIMPSON LLP
ATTN PAUL L ARRINGTON
195 RIVER VISTA PL STE 204
TWIN FALLS ID 83301-3029



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.

** **Proof of Publication** **

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

RUBY AUFDERHEIDE, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

IDAHO DEPT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, ID 83705

ORDER NUMBER 10622

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
 .SS
COUNTY OF TWIN FALLS)

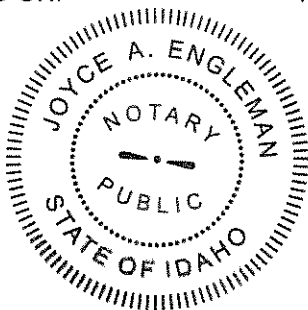
On this 2nd day of Oct in the year of 2015 before me, a Notary Public, personally appeared before me Ruby Aufderheide known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Joyce A. Engleman
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 6/28/19

PUBLISHED ON: 10/15/2015, 10/22/2015

TOTAL AD COST: 93.39

FILED ON: 10/22/2015



PROPOSED CHANGE OF WATER RIGHT(S) *VOK RN 11/3/15*
High Plains Dairy of PO Box 780 Castleford, ID 83321, filed a Transfer Application **79846** for Water Rights 51-7373 and 51-7374 with a 1951 priority from groundwater. The applicant proposes to remove a Point of Diversion within Township 10 South, Range 12 East, Section 1, SE1/4SW1/4, B.M. The rights authorize 1.04 cfs for commercial and stockwater use located in Blue Gulch, 12 miles west of Buhl.
High Plains Dairy of PO Box 780 Castleford ID 83321, filed a Transfer Application **79847** for ground water rights with a 1951 priority date. The applicant proposes to change the Point of Diversion to drill a new well and create a 65.1 acre permissible place of use within Township 10 South, Range 12 East, Section 1, NE1/4SW1/4, B.M. The rights authorize a combined use limit of 232.4 af on 58.1 acres for irrigation use located 12 miles west of Buhl. *VOK RN 11/3/15*
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 11021/015. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director
PUBLISH: October 15 and 22, 2015

RECEIVED

OCT 28 2015

WATER RESOURCES
WESTERN REGION