

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 80316

This is to certify that: OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY, ID 83318

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
45-13941	WR/DECREED	5/21/1962	1.010 cfs	236.1 af	N/A	N/A	GROUND WATER
45-13943	WR/DECREED	9/11/1967	0.920 cfs	222.5 af	N/A	N/A	GROUND WATER
45-13945	WR/DECREED	11/24/1981	1.240 cfs	156.2 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

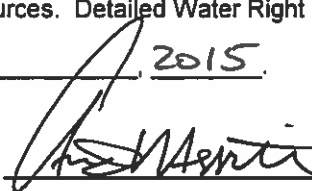
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
45-13941	NO	NO	YES	NO	NO	NO
45-13943	NO	NO	YES	NO	NO	NO
45-13945	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
45-13941	45-13941	1.010 cfs	236.1 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
45-13943	45-13943	0.920 cfs	222.5 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
45-13945	45-13945	1.240 cfs	156.2 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.970 cfs	395.6 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 27th day of October, 2015.


Southern Region Manager

SUPPORT DATA

Transfer No. 80316

IN FILE # 45-13941

WATER RIGHT NO. 45-13941**As Modified by Transfer No. 80316**

In accordance with the approval of Transfer No. 80316, Water Right No. 45-13941 is now described as follows:

Right Holder: OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY, ID 83318

Priority Date: 5/21/1962

Source: GROUND WATER

BENEFICIAL USE

	From	To	Diversion Rate	Diversion Volume
COMMERCIAL	01/01	to 12/31	1.010 cfs	236.1 af
STOCKWATER	01/01	to 12/31	1.010 cfs	236.1 af
			1.010 cfs	236.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSWNE	Sec 13 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNE	Sec 23 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNW	Sec 24 Twp 11S Rge 21E	CASSIA County
GROUND WATER	L3 (SWNWSW)	Sec 19 Twp 11S Rge 22E	CASSIA 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	
11S	21E	24		X	X		X	X	X	X									

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	
11S	21E	24		X	X		X	X	X	X									

CONDITIONS OF APPROVAL

1. Rights 45-13941 and 45-13943 when combined shall not exceed a total diversion rate of 1.93 cfs or a total annual maximum diversion volume of 248.9 af.
2. Rights 45-13941, 45-13943 and 45-13945 when combined shall not exceed a total diversion rate of 1.97 cfs or a total annual maximum diversion volume of 395.6 af.
3. 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. 140.

Transfer No. 80316

WATER RIGHT NO. 45-13941

As Modified by Transfer No. 80316

CONDITIONS OF APPROVAL

4. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. Pursuant to Transfer approval 72004, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. This right does not grant any right-of-way or easement across the land of another.
9. Commercial use is for a dairy.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.

WATER RIGHT NO. 45-13943**As Modified by Transfer No. 80316**

In accordance with the approval of Transfer No. 80316, Water Right No. 45-13943 is now described as follows:

Right Holder: OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY, ID 83318

Priority Date: 9/11/1967

Source: GROUND WATER

BENEFICIAL USE

COMMERCIAL
STOCKWATER

From

01/01
01/01

to

To

12/31
12/31

Diversion Rate

0.920 cfs
0.920 cfs
0.920 cfs

Diversion Volume

222.5 af
222.5 af
222.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSWNE	Sec 13 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNE	Sec 23 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNW	Sec 24 Twp 11S Rge 21E	CASSIA County
GROUND WATER	L3 (SWNWSW)	Sec 19 Twp 11S Rge 22E	CASSIA 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	
11S	21E	24		X	X		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	
11S	21E	24		X	X		X	X	X	X									

CONDITIONS OF APPROVAL

1. Rights 45-13941 and 45-13943 when combined shall not exceed a total diversion rate of 1.93 cfs or a total annual maximum diversion volume of 248.9 af.
2. Rights 45-13941, 45-13943 and 45-13945 when combined shall not exceed a total diversion rate of 1.97 cfs or a total annual maximum diversion volume of 395.6 af.
3. 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. 140.

Transfer No. 80316

WATER RIGHT NO. 45-13943

As Modified by Transfer No. 80316

CONDITIONS OF APPROVAL

4. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. Pursuant to Transfer approval 72004, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
8. This right does not grant any right-of-way or easement across the land of another.
9. Commercial use is for a dairy.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.

WATER RIGHT NO. 45-13945**As Modified by Transfer No. 80316**

In accordance with the approval of Transfer No. 80316, Water Right No. 45-13945 is now described as follows:

Right Holder: OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY, ID 83318

Priority Date: 11/24/1981

Source: GROUND WATER

BENEFICIAL USE

COMMERCIAL
STOCKWATER

From

01/01
01/01

To

to 12/31
to 12/31

Diversion Rate

1.240 cfs
1.240 cfs
1.240 cfs

Diversion Volume

156.2 af
156.2 af
156.2 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSWNE	Sec 13 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNE	Sec 23 Twp 11S Rge 21E	CASSIA County
GROUND WATER	NWNWNW	Sec 24 Twp 11S Rge 21E	CASSIA County
GROUND WATER	L3 (SWNWSW)	Sec 19 Twp 11S Rge 22E	CASSIA 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	
11S	21E	24		X	X		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	
11S	21E	24		X	X		X	X	X	X									

CONDITIONS OF APPROVAL

1. Rights 45-13941, 45-13943 and 45-13945 when combined shall not exceed a total diversion rate of 1.97 cfs or a total annual maximum diversion volume of 395.6 af.
2. 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. 140.
3. The right holder shall maintain 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. 80316

WATER RIGHT NO. 45-13945

As Modified by Transfer No. 80316

CONDITIONS OF APPROVAL

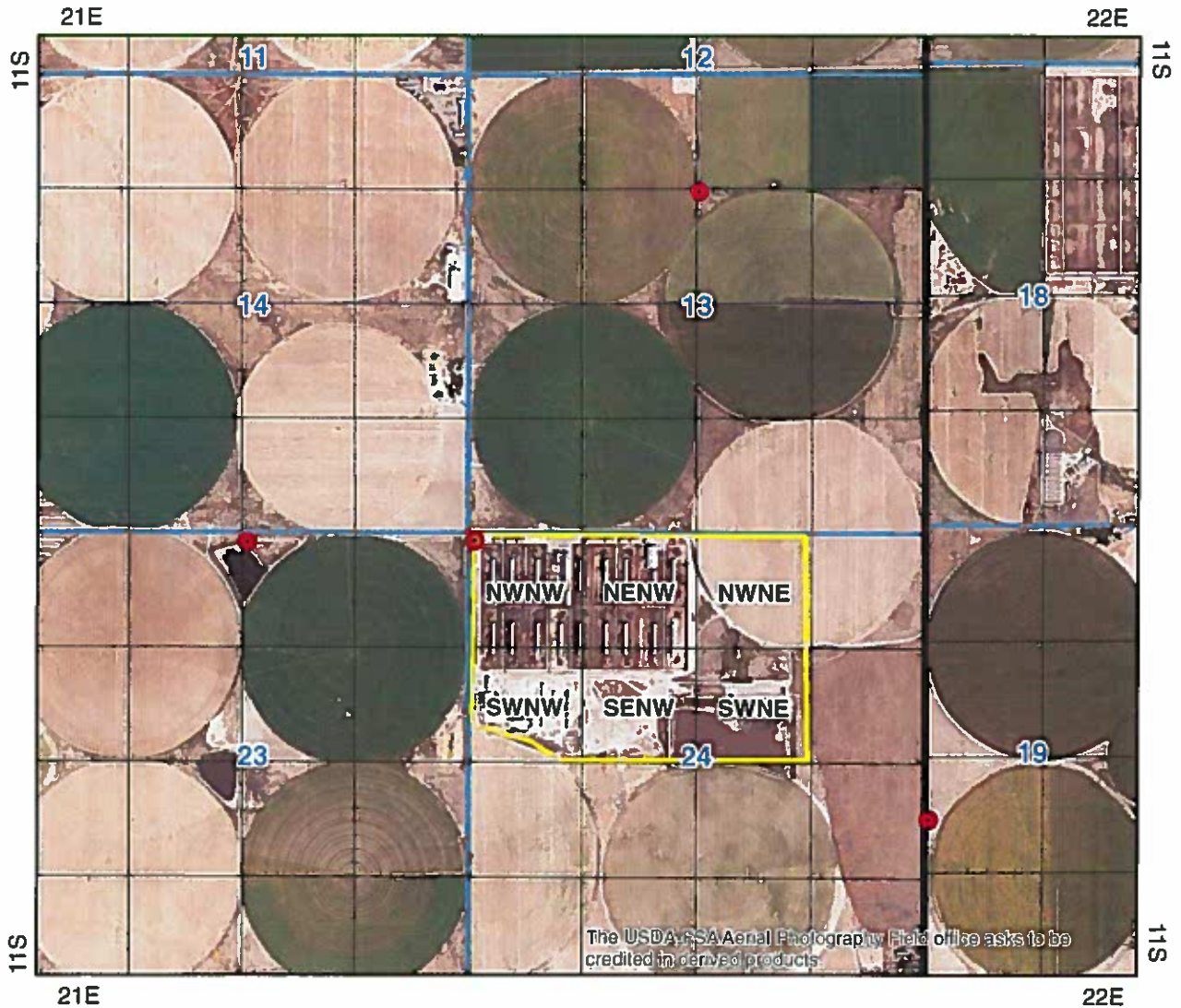
4. Pursuant to Transfer approval 72004, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
5. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
7. This right does not grant any right-of-way or easement across the land of another.
8. Commercial use is for a dairy.
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 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.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 80316

Rights: 45-13941, 45-13943 & 45-13945

This map depicts the COMMERCIAL & 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
- Quarter Quarters

0 0.25 0.5 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

October 28, 2015

OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY ID 83318

Re: Transfer No: 80291
Water Right No(s): 45-13924, 45-13926, 45-13928, 45-13930, 45-13932, 45-13934,
45-13936, 45-13938, 45-14167, 45-14169, 45-14306, 45-14308, 45-14310

Re: Transfer No: 80315
Water Right No(s): 45-14307, 45-14309, 45-14311

Re: Transfer No: 80316
Water Right No(s): 45-13941, 45-13943, 45-13945

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 "Allen Merritt", with a stylized flourish at the end.

Allen Merritt
Southern Regional Manager

Enclosure

cc:

METROPOLITAN LIFE INSURANCE CO
10801 MASTIN BLVD STE 930
OVERLAND PARK KS 66120

BRIAN HIGGS WATERMASTER
WATER DISTRICT 140
355 W 500 S
BURLEY ID 83318

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No: 80291

Water Right No(s): 45-13924, 45-13926, 45-13928, 45-13930, 45-13932, 45-13934, 45-13936, 45-13938, 45-14167, 45-14169, 45-14306, 45-14308, 45-14310

Re: Transfer No.: 80315

Water Right No(s): 45-14307, 45-14309, 45-14311

Re: Transfer No: 80316

Water Right No(s): 45-13941, 45-13943, 45-13945

**OAK VALLEY LAND CO LLC
468 S 800 W
BURLEY ID 83318**

**METROPOLITAN LIFE INSURANCE CO
10801 MASTIN BLVD STE 930
OVERLAND PARK KS 66120**

**BRIAN HIGGS WATERMASTER
WATER DISTRICT 140
355 W 500 S
BURLEY ID 83318**

Via e-mail

A handwritten signature in black ink, reading "Denise Maline", is written over a 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.

MEMORANDUM

Date: October 21, 2015
To: Transfer 80316
From: Jana Reeder
Re: Legal Notice Not Required

Application proposes correcting the place of use for three existing ground water rights for a dairy operation located approximately 5.4-6.0 mi. south and 7.3-8.0 mi. west of the Overland and Main St. intersection in Burley. Currently four existing wells divert up to 1.97 cfs and 337.4 AFA for stockwater and commercial uses associated with the existing dairy facility. No physical changes are occurring.

Legal Notice Not Required
8/21/2015

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.

MEMORANDUM

Date: October 21, 2015
To: Transfer 80316 File
From: Jana Reeder
Re: Evaluation of Sufficiency of Information Submitted

Application proposes correcting the place of use for three existing ground water rights for a dairy operation located approximately 5.4-6.0 mi. south and 7.3-8.0 mi. west of the Overland and Main St. intersection in Burley. Currently four existing wells divert up to 1.97 cfs and 337.4 AFA for stockwater and commercial uses associated with the existing dairy facility.

The points of diversion and the place of use are located within the ESPA, the Oakley Fan and Oakley-Kenyon CGWAs and also Water District 140 so watermaster comments will be necessary. No physical change is proposed, recommend no advertise.

- **Authority to File:**
The applicant is listed as the current owner of water rights 45-13941, 45-13943 and 45-13945 according to IDWR records. The application includes a warranty deed showing the applicant's ownership of the new land involved with the transfer.
- **Water Right Validity:**
Water rights 45-13941, 45-13943 and 45-13945 were decreed in 10/16/2009.
- **Injury to Other Water Rights:**
None anticipated. No physical change is proposed.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No negative impact anticipated. Recommend no advertise.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on Economy of the Local Area:**
None anticipated.
- **Effect of the Agricultural Base of the Local Area:**
None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.