

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79684

This is to certify that: **RAYMOND L BACKEN**
260 BOBTAIL MEADOWS RD STE 100
LIBBY, MT 59923

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>
63-32429	WR/DECREED	11/4/1948	0.800 cfs	N/A	N/A	59.3	GROUND WATER
63-32432	WR/DECREED	2/27/1971	0.590 cfs	N/A	N/A	65.3	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>
63-32429	YES	YES	NO	NO	NO	NO
63-32432	YES	YES	NO	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>
63-32429	63-34015	0.030 cfs	N/A	N/A	2.1	63-32429	0.770 cfs	N/A	N/A	57.2
63-32432	63-34016	0.020 cfs	N/A	N/A	2.1	63-32432	0.570 cfs	N/A	N/A	63.2
COMBINED TOTALS		0.050 cfs	N/A	2.1	2.1		N/A	N/A	67.2	67.2

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 29th day of May, 2015.


JEFF PEPPERSACK, Interim Western Region Manager

SUPPORT DATA

IN FILE # 63-32429

Transfer No. 79684

WATER RIGHT NO. 63-32429

As Modified by Transfer No. 79684

In accordance with the approval of Transfer No. 79684, Water Right No. 63-32429 is now described as follows:

Right Holder: BARRETT FARMS LTD
2308 TERRACE DR
CALDWELL, ID 83605

Priority Date: 11/4/1948

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From
03/01

To
to 11/15

Diversion Rate
0.770 cfs
0.770 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 17 Twp 03N Rge 03W CANYON 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	
03N	03W	17								14.0	34.3					8.9			57.2
																1			

POU Total Acres: 57.2

CONDITIONS OF APPROVAL

1. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
2. This right is a split from former right 63-2734A.
3. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. 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.
5. Rights 63-32429 and 63-32432 when combined shall not exceed a total annual maximum diversion volume of 302.4 af at the field headgate, and the irrigation of 67.2 acres.
6. Right Nos. 63-32430, 63-32431, 63-32432, 63-32433 and 63-32434 are also diverted through point of diversion described above.

Transfer No. 79684

WATER RIGHT NO. 63-34015 **As Modified by Transfer No. 79684**

In accordance with the approval of Transfer No. 79684, Water Right No. 63-34015 is now described as follows:

Right Holder: RAYMOND L BACKEN
 260 BOBTAIL MEADOWS RD STE 100
 LIBBY, MT 59923

Priority Date: 11/4/1948

Source: GROUND WATER

BENEFICIAL USE
 IRRIGATION

From
 03/01

To
 to 11/15

Diversion Rate
 0.030 cfs
 0.030 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L1 (NWSE) Sec 17 Twp 03N Rge 03W CANYON 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	
03N	03W	17															2.1			2.1
																	L 1			

POU Total Acres: 2.1

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Rights 63-34015 and 63-34016 when combined shall not exceed a total annual maximum diversion volume of 9.5 af at the field headgate, and the irrigation of 2.1 acres.
3. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
4. Right Nos. 63-34015 and 63-34016 are diverted through point of diversion described above.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this 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.

Transfer No. 79684

WATER RIGHT NO. 63-34015
As Modified by Transfer No. 79684

CONDITIONS OF APPROVAL

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 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. 63-32432

As Modified by Transfer No. 79684

In accordance with the approval of Transfer No. 79684, Water Right No. 63-32432 is now described as follows:

Right Holder: BARRETT FARMS LTD
2308 TERRACE DR
CALDWELL, ID 83605

Priority Date: 2/27/1971

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From
03/01

To
to 10/01

Diversion Rate
0.570 cfs
0.570 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 17 Twp 03N Rge 03W CANYON 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	
03N	03W	17								13.0	32.3			10.0		7.9			63.2
																L 1			

POU Total Acres: 63.2

CONDITIONS OF APPROVAL

1. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. This right is a split from former right 63-7394A.
3. The use of water for irrigation under this right may continue as late as November 15, provided other elements of the right are not exceeded. The use of water after October 1 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4. Rights 63-32429 and 63-32432 when combined shall not exceed a total annual maximum diversion volume of 302.4 af at the field headgate, and the irrigation of 67.2 acres.
5. Right Nos. 63-32429, 63-32430, 63-32431, 63-32433 and 63-32434 are also diverted through point of diversion described above.

Transfer No. 79684

WATER RIGHT NO. 63-32432
As Modified by Transfer No. 79684

CONDITIONS OF APPROVAL

6. 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.



WATER RIGHT NO. 63-34016

As Modified by Transfer No. 79684

In accordance with the approval of Transfer No. 79684, Water Right No. 63-34016 is now described as follows:

Right Holder: RAYMOND L BACKEN
260 BOBTAIL MEADOWS RD STE 100
LIBBY, MT 59923

Priority Date: 2/27/1971

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From 03/01 **To** 10/01

Diversion Rate
0.020 cfs
0.020 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER L1 (NWSE) Sec 17 Twp 03N Rge 03W CANYON 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	
03N	03W	17														2.1			2.1
																L 1			

POU Total Acres: 2.1

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. Rights 63-34015 and 63-34016 when combined shall not exceed a total annual maximum diversion volume of 9.5 af at the field headgate, and the irrigation of 2.1 acres.
3. The period of use for the irrigation described in this approval may be extended to an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than April 29, 2009.
4. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
5. Right Nos. 63-34015 and 63-34016 are diverted through point of diversion described above.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 79684

WATER RIGHT NO. 63-34016
As Modified by Transfer No. 79684

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 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

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

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

June 1, 2015

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RAYMOND L BACKEN
260 BOBTAIL MEADOWS RD STE 100
LIBBY MT 59923

Re: Transfer No: 79684
Water Right No(s): 63-32429, 63-32432

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:

Jeff Peppersack
Interim Manager, Western Region

Enclosure

CC:

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 79684
Water Right No(s): 63-32429, 63-32432**

**RAYMOND L BACKEN
260 BOBTAIL MEADOWS RD STE 100
LIBBY MT 59923**

**SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**Rachel Neely
Administrative Assistant I**

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.

RECEIVED

APR 29 2015

WATER RESOURCES
WESTERN REGION

29512 1267823

1 IDAHO DEPT. OF WATER RESOURCES

WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO)

)SS.

County of Canyon)

MICHELLE CLAXTON

of Nampa, Canyon County, Idaho, being
first duly sworn, deposes and says:

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

✓ 63-34014

RAYMOND L BACKEN

260 BOBTAIL MEADOWS RD STE 100

LIBBY, MT 59923

Point of Diversion L1(NWSE) S17 T03N R03W

CANYON County Source GROUND WATER

Use: COMMERCIAL 01/01 to 12/31 0.08 CFS

Total Diversion: 0.08 CFS

Date Filed: 11/7/2014

Place of Use: COMMERCIAL

T03N R03W S17 L1(NWSE)

Water bearing zone to be appropriated is from 100 to 300 feet.

✓ PROPOSED CHANGE OF WATER RIGHTS

Raymond L. Backen of 260 Bobtail Meadows Rd., Ste. 100, Libby, MT, 59923, filed Application No. 79684 to transfer a portion of two water rights with 1948 and 1971 priority dates from a ground water source totaling 0.05 cfs. The purpose of the transfer is to split the water rights and allow the applicant to drill a well on his property. Water will be used at the current place of use approximately 0.5 miles north of Lake Lowell, 0.5 miles south of Karcher Road and 0.3 miles west of Wagner Road.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the rights &/or proposed transfer, please see www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(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 5/4/2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

April 16, 23, 2015

1267823

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the City of Nampa, in the County of Canyon, State of Idaho; that the said newspaper is in general circulation in the said County of Canyon, and in the vicinity of Nampa and Caldwell, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.

3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:

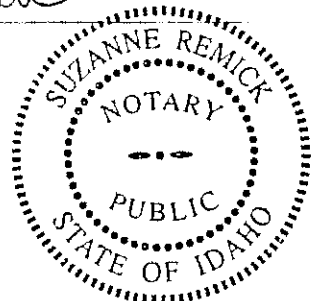
04/16/2015 04/23/2015

Michelle Claxton
STATE OF IDAHO)

County of Canyon)

On this 23rd day of April in the year of 2015 before me a Notary Public, personally appeared MICHELLE CLAXTON, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Suzanne Remick
Notary Public for Idaho
Residing at Canyon County
My Commission expires 07/25/2018



OK
5-19-15
RS