

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79023

This is to certify that: HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND, OR 97756

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>
63-33867	WR/DECREED	1/6/1947	0.030 cfs	4.3 af	N/A	1.7	GROUND WATER
63-33868	WR/DECREED	1/6/1947	0.010 cfs	8.7 af	N/A	2.3	GROUND WATER

Purpose of Transfer (Changes Proposed)

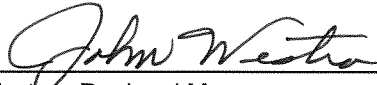
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-33867	NO	YES	YES	NO	NO	NO
63-33868	NO	YES	YES	NO	NO	NO

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>
63-33867	63-33867	0.030 cfs	4.3 af	1.7	4.0	N/A	N/A	N/A	N/A	N/A
63-33868	63-33868	0.010 cfs	8.7 af	2.3	4.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 cfs	13.0 af	N/A	4.0		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 16th day of May, 2014.


Western Regional Manager

SUPPORT DATA
IN FILE # 63-33867

Transfer No. 79023

WATER RIGHT NO. 63-33867
As Modified by Transfer No. 79023

In accordance with the approval of Transfer No. 79023, Water Right No. 63-33867 is now described as follows:

Right Holder: HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND, OR 97756

Priority Date: 1/6/1947

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/01	to 11/15	0.010 cfs	4.2 af
STOCKWATER	01/01	to 12/31	0.020 cfs	0.1 af
			0.030 cfs	4.3 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec 35 Twp 04N Rge 01W ADA 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	
04N	01W	35												4.0					4.0

Right Acre Limit: 1.7

POU Total Acres: 4.0

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	
04N	01W	35												X					

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by Transfer 71989 within one year of the date of the 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.

Transfer No. 79023

WATER RIGHT NO. 63-33867
As Modified by Transfer No. 79023

CONDITIONS OF APPROVAL

3. 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.
4. The right holder shall make full use of all appurtenant surface water rights in conjunction with ground water diverted for irrigation purposes under this right.
5. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
6. This right is limited to the irrigation of 1.7 acres within the authorized place of use in a single irrigation season.
7. This right when combined with all other rights shall provide no more than .03 cfs per acre nor exceed a combined annual maximum diversion volume of 7.7 af at the field headgate for the place of use.
8. 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 lands above.
9. Use of this right is combined with water from Settlers Irrigation District.
10. Rights 63-33867 and 63-33868 when combined shall not exceed the irrigation of 4 acres in a single irrigation season.

WATER RIGHT NO. 63-33868
As Modified by Transfer No. 79023

In accordance with the approval of Transfer No. 79023, Water Right No. 63-33868 is now described as follows:

Right Holder: HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND, OR 97756

Priority Date: 1/6/1947

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.010 cfs	8.7 af
			0.010 cfs	8.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESW Sec 35 Twp 04N Rge 01W ADA 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	
04N	01W	35												4.0					4.0

Right Acre Limit: 2.3

POU Total Acres: 4.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by Transfer 71989 within one year of the date of the 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. 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.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 2/16/2007.

Transfer No. 79023

WATER RIGHT NO. 63-33868
As Modified by Transfer No. 79023

CONDITIONS OF APPROVAL

5. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
6. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
7. This right is limited to the irrigation of 2.3 acres within the authorized place of use in a single irrigation season.
8. This right when combined with all other rights shall provide no more than .03 cfs per acre nor exceed a combined annual maximum diversion volume of 10.4 af at the field headgate for the place of use.
9. Use of this right is combined with water from Settlers Irrigation District.
10. Rights 63-33867 and 63-33868 when combined shall not exceed the irrigation of 4 acres in a single irrigation season.



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

May 20, 2014

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND OR 97756

Re: Transfer No. 79023
Water Right No's: 63-33867, 63-33868

Transfer Approval Notice

Dear Water Right Holders:

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,



For:

John Westra

Western Regional Manager

Enclosures

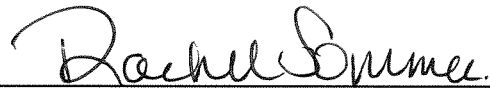
CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No. 79023
Water Right No's: 63-33867, 63-33868**

**HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND OR 97756**

**ERICKSON CIVIL INC
C/O ROSS K ERICKSON
6213 N CLOVERDALE STE 125
BOISE ID 83713**

A handwritten signature in cursive script, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
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.

RECEIVED

MAR 31 2014

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	WATER RESOURCES WESTERN REGION	
263976	0000952021	LEGAL NOTICE The following applications	JANIS WROTEN GRAHAM	\$287.03	2	93

Attention: RACHEL SOMMER

IDAHO DEPT WATER RESOURCE/ WEST
2735 AIRPORT WAY
BOISE, ID 837055082

LEGAL NOTICE

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

✓ **63-33879**
JANIS M WROTEN GRAHAM
8603 W HIGH RIDGE LN
EAGLE, ID 83616
Point of Diversion SWSE SESE S28 T04N R01W ADA County Source
GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.15 CFS
Use: STOCKWATER 01/01 to 12/31 0.02 CFS
Total Diversion: 0.19 CFS
Date Filed: 11/29/2013
Place of Use: DOMESTIC
T05N R01W S28 SWSE
Place of Use: IRRIGATION, STOCKWATER
T05N R01W S28 SWSE SESE
Total Acres: 5
Water bearing zone to be appropriated is from 150 feet to 415 feet.

✓ **63-33887**
HAYDEN HOMES IDAHO LLC
C/O BILL DUFFEY
2464 SW GLACIER PL
REDMOND, OR 97756
Point of Diversion SESW S35 T04N R01W ADA County Source GROUND
WATER
Use: IRRIGATION 03/01 to 11/15 0.13 CFS
Total Diversion: 0.13 CFS
Date Filed: 12/23/2013
Place of Use: IRRIGATION
T04N R01W S35 SESW
Total Acres: 4.4
Water bearing zone to be appropriated is from 200 to 300 feet.

✓ **63-33890**
JOHN A KRUEGER
NANCY J KRUEGER
2730 E KUNA MORA RD
KUNA, ID 83634
Point of Diversion L4(SWSW) S31 T02N R03E ADA County Source
GROUND WATER
Use: IRRIGATION 03/15 to 11/15 0.15 CFS
Total Diversion: 0.15 CFS
Date Filed: 12/18/2013
Place of Use: IRRIGATION
T02N R03E S31 L4(SWSW)
Total Acres: 5
Water bearing zone to be appropriated is from 600 to 700 feet.

✓ **63-33920**
VICTORINA M MURGOITIO
LOUIS P MURGOITIO
7373 S MAPLE GROVE RD
BOISE, ID 83709
Point of Diversion SWSE NESE S1 T02N R01E ADA County Source
GROUND WATER
Use: IRRIGATION 03/15 to 11/15 2.56 CFS
Total Diversion: 2.56 CFS
Date Filed: 2/19/2014
Place of Use: IRRIGATION
T02N R01E S1 SESE NESE SESE
T02N R01E S12 NWNE
Total Acres: 128

PROPOSED CHANGE OF WATER RIGHTS

✓ **Hayden Homes Idaho, LLC** of 2464 SW Glacier Pl, Redmond, OR 97756 filed Application No. 79023 to transfer two water rights with 1947 priority dates from ground water totaling .04 cfs. The purpose of the transfer is to change the point of diversion and place of use to a new well on property owned by the applicant located on the north side of Ustick Rd. between N. Ten Mile and N. Under Roads. 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/apps/ExtSearch/WRFiling.asp. 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 4/7/14. The protestant must also send a copy of the protest to the applicant. GARY SPACKMAN, Director

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada 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 Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2. Insertions

Beginning issue of: 03/20/2014

Ending issue of: 03/27/2014

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

..SS

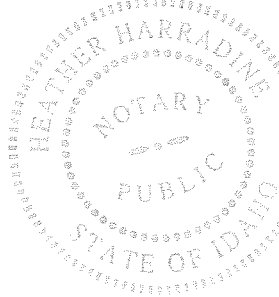
COUNTY OF ADA)

On this 28th day of March in the year of 2014 before me, a Notary Public, personally appeared before me Janice Hildreth 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.

Heather Harradine

Notary Public FOR Idaho
Residing at: Boise, Idaho

My Commission expires: 2/11/2021



MEMORANDUM

TO: Transfer No. 79023

FROM: Sharla Curtis

DATE: March 12, 2014

RE: Evaluation of Application

The transfer proposes construction of a new well and moving two water rights to a new place of use. The site is located on the north side of Ustick Rd. between N. Ten Mile and N. Linder Rd.

Contact person for the applicant is Ross Erickson of Erickson Civil, Inc. The signature is "electronic" and should be acceptable (note that the date is also part of the electronic signature).

Summary of Information Submitted

Authority to File: The applicant is the right holder of record for both rights and therefore is authorized to file the transfer.

Water Right Validity: Rights presumed to be valid - partial decrees were issued in 2007, aerial photography for the next 5 to 6 years some confirm irrigation of turf and trees used for subdivision development in the area; rights were placed into the Water Supply Bank in 2013 to avoid forfeiture for whatever non-use had occurred within the past five year period. Furthermore, the rights are supplemental and therefore subject to periods/years of non-use.

Injury to Other Water Rights: None anticipated.

Enlargement of Use: No enlargement will occur; rates, volumes, number of acres all remain the same. The rights will remain supplemental.

Local Public Interest: Agriculture has always been considered to be in the public interest in Idaho.

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.

Data entry affected the correct records. Water Bank issues - approval documents to include water bank paragraph in cover letter. I also coordinated this transfer with Cherie Palmer at the S.O. Cherie informed me that Hayden Homes filed the WSB application to protect their water rights from forfeiture. They were right up against the last year of use it, bank it, or lose it. The rights were accepted into the bank but the lease was conditioned to say that the water rights are supplemental to Settlers Irrigation District. IDWR had talked to the irrigation district and confirmed they do have shares available that have been delivered.

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. Condition 046 will be used since a new well is proposed.