

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78883

This is to certify that: KEVIN E DINIUS
1515 SPRUCE CREEK LOOP
NAMPA, ID 83686

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>
63-33833	WR/DECREED	10/12/1948	0.280 cfs	142.4 af	N/A	32.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

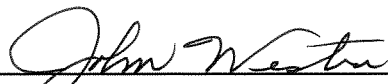
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-33833	NO	NO	NO	YES	NO	NO

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>
63-33833	63-33833	0.280 cfs	142.4 af	N/A	32.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.280 cfs	142.4 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 30th day of January, 2014.


Western Regional Manager

Transfer No. 78883

WATER RIGHT NO. 63-33833

As Modified by Transfer No. 78883

In accordance with the approval of Transfer No. 78883, Water Right No. 63-33833 is now described as follows:

Right Holder: KEVIN E DINIUS
1515 SPRUCE CREEK LOOP
NAMPA, ID 83686

Priority Date: 10/12/1948

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	0.280 cfs	142.4 af
			0.280 cfs	142.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWNE	Sec 27 Twp 02N Rge 02W CANYON County
GROUND WATER	NWNE	Sec 27 Twp 02N Rge 02W 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	
02N	02W	22												13.0			17.0	2.0	32.0

POU Total Acres: 32.0

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. 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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Transfer No. 78883

WATER RIGHT NO. 63-33833
As Modified by Transfer No. 78883

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 place of use.
7. The following rights are diverted through the existing point of diversion located in the NWNE, S27: 63-2724B, 63-7610C, 63-7610D, 63-31982, 63-32381, 63-32382, 63-32383, 63-32384 and 63-33833. Further, the following rights are diverted through the proposed point of diversion located in the NWNE, S27: 63-7610D, 63-32382, 63-32383, 63-32384 and 63-33833.
8. Rights 63-2724B, 63-7610C, 63-7610D, 63-31982, 63-32381, 63-32382, 63-32383, 63-32384 and 63-33833 when combined shall not exceed a total diversion rate of 3.90 cfs.

RECEIVED

OCT 09 2013

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change

1. **APPLICANT(S)** Kevin E. Dinius Phone 208-475-0100

2. **MAILING ADDRESS** 1515 Spruce Creek Loop City Nampa

State ID Zip 83686 Email kdinius@diniuslaw.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) required for water right ownership changes; see [fee schedule](#).
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 63-33833

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is .28 cubic feet per second and/or 142.4 acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

TwP	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
2N	2W	27		NW	NE		Canyon	Existing Well	20699
2N	2W	27		NW	NE		Canyon	Proposed Well	new

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

The system will consist of two wells, existing and new, both connecting to mainline servicing pivots, wheel lines and hand lines. A lockable measuring device can be added at the well site or the main line, as necessary.

- b. Who owns the property at the point(s) of diversion? JTAP, LLC

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
SHARED IRRIGATION USERS AGREEMENT

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe _____

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and ¼ ¼ of section information. The *Map Tool*, available at <http://maps.idwr.idaho.gov/TransferApplicationLayouts/> provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

[Signature] Kevin E. Dinius 10/7/13
Signature of applicant or authorized agent Print name and title if applicable Date

Signature of applicant or authorized agent Print name and title if applicable Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes 2 pages of attachments. Received by NG Date 10/9/13
Fee paid 585- Date 10/9/13 Receipted by NG Receipt # W041559
Preliminary review completed by [Signature] Date 10/30/13



Legend

- ESPA
- GCDB Township/Range
- GCDB Section
- GCDB Quarter-Quarter
- Counties

X - Existing Point of Diversion

* - New Point of Diversion

RECEIVED

OCT 09 2013

WATER RESOURCES
WESTERN REGION



**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 63-33833

Current Owner: KEVIN E DINIUS

Priority Date: 10/12/1948

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	0.28 CFS	142.4 AF
	<u>Total Diversion</u>	0.28 CFS	142.4 AF

Location of Point(s) of Diversion

GROUND WATER
CANYON County

NW1/4NE1/4 Sec. 27, Twp 02N, Rge 02W B.M.

Place of Use

IRRIGATION Within CANYON County

T02N R02W S22	SESW	13.00	T02N R02W S22	SWSE	17.00
T02N R02W S22	SESE	2.00			

Total Acres: 32

Conditions of Approval:

1. X35 All parts of original licensed Rights 63-2724 and 63-7610 when combined shall not exceed a total diversion rate of 3.90 cfs.
2. C18 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.

Decreed Date: 2/6/2009

Sommer, Rachel

From: Sommer, Rachel
Sent: Monday, April 28, 2014 10:42 AM
To: Marston, Sascha
Subject: Refund: Dinius

MEMORANDUM

TO: Sascha Marston
FROM: Rachel Sommer
DATE: April 28, 2014
WR TRANSFER NO: 78883
RE: Refund

On October 9, 2013, Kevin E Dinius filed an Application for Transfer for .28 cfs and paid an incorrect fee of \$580.

The correct fee the Department would charge is \$500. Please refund \$80.

Please issue a refund of \$80 to:

DINIUS & ASSOCIATES
1515 SPRUCE CREEK LOOP
NAMPA ID 83686

RECEIPT #

W041559



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

January 31, 2014

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

KEVIN E DINIUS
1515 SPRUCE CREEK LOOP
NAMPA ID 83686

Re: Transfer No. 78883
Water Right No. 63-33833

Transfer Approval Notice

Dear Water Right Holder:

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,

A handwritten signature in black ink, reading "Rachel Sommer". The signature is written in a cursive style with a large, looping "R" and "S".

Rachel Sommer
Administrative Assistant

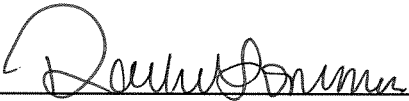
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person listed below:

**Re: Transfer No. 78883
Water Right No. 63-33833**

**KEVIN E DINIUS
1515 SPRUCE CREEK LOOP
NAMPA ID 83686**

A handwritten signature in cursive script, appearing to read "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.

MEMORANDUM

TO: Transfer No. 78883

FROM: Rick Collingwood

DATE: October 30, 2013

RE: Evaluation of Application

The transfer proposes to add an additional point of diversion near the existing well. According to the right holder, Kevin Dinius, the water production from the existing irrigation well is inadequate to irrigate the current place of use.

The site is located south of Nampa, approximately 1 mile south of Deer Flat Road between State Highway 45 and Powerline Road.

Summary of Information Submitted

Authority to File:

The applicant is the right holder of record.

Water Right Validity:

Water Right 63-33833 was decreed on February 6, 2009. Since this water right was decreed within the last 5 years, the water right is valid.

Injury to Other Water Rights:

No injury should occur. The transfer will not change the legal description for the new point of diversion or the place of use. No more water or lands are proposed under this application.

Enlargement of Use:

No enlargement of use is expected. No more water or lands are proposed under this application.

Local Public Interest:

It is in the public's interest to maintain a viable and reliable irrigation system for the public good, and to provide an accurate description of a water right.

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.

Discussion

The new well proposed by the Kevin Dinius Transfer Application No. 78883 and JTAP, LLC, Transfer Application No. 78812 are the same well. A shared well operations and maintenance agreement between Kevin Dinius and JTAP, LLC, is being prepared by both parties.

Transfer No. 78883 and Transfer 78812 will not be advertised since the proposed well will be near the existing well and not near wells owned by others.

Overlapping rights at the existing POD are irrigation water rights 63-2724B for the Agenbroad Nampa Limited Partnership, 63-32382, 63-32383, 63-32384, and 63-7610D for JTAP, LLC, and 63-7610C and 63-32381 for Howard Mylander. No other water rights for irrigation are diverted from the existing point of diversion.

Overlapping rights at the existing POU are Water Right 63-2388 from the U.S. Dept. of Interior, Water Right 63-26671 from the Boise-Kuna Irrigation District, Water Right 63-372 from the New York Irrigation District, and Water Right 63-2392F from the Boise Project Board of Control.

The transfer filing fee for 0.28 cfs falls is \$500.00. The payment submitted by the applicant was for \$580.00. A refund of \$80.00 will be issued to the applicant.

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.