

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78884

This is to certify that: COPENHAVER WATER USERS ASSN #1 INC
C/O BRIAN M HOWARD
2607 S SIENNA DR
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>
77-14327	WR/LICENSE	9/9/2009	0.140 cfs	7.8 af	N/A	2.0	SOUTH FORK SALMON RIVER

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>
77-14327	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>
77-14327	77-14327	0.140 cfs	7.8 af	N/A	2.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.140 cfs	7.8 af	N/A	2.0		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 23rd day of December, 2013.


Western Regional Manager

Transfer No. 78884

WATER RIGHT NO. 77-14327**As Modified by Transfer No. 78884**

In accordance with the approval of Transfer No. 78884, Water Right No. 77-14327 is now described as follows:

Right Holder: COPENHAVER WATER USERS ASSN #1 INC
C/O BRIAN M HOWARD
2607 S SIENNA DR
NAMPA, ID 83686

Priority Date: 9/9/2009

Source: SOUTH FORK SALMON RIVER **Tributary:** SALMON RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	01/01	to 12/31	0.080 cfs	1.8 af
IRRIGATION	03/15	to 10/31	0.060 cfs	6.0 af
			0.140 cfs	7.8 af

LOCATION OF POINT(S) OF DIVERSION

SOUTH FORK SALMON RIVER SENE Sec 6 Twp 23N Rge 08E IDAHO County
SOUTH FORK SALMON RIVER SENE Sec 6 Twp 23N Rge 08E IDAHO County

PLACE OF USE: DOMESTIC

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	08E	6				X													

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	
23N	08E	6				2.0													2.0

POU Total Acres: 2.0

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.

Transfer No. 78884

WATER RIGHT NO. 77-14327

As Modified by Transfer No. 78884

CONDITIONS OF APPROVAL

3. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
4. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
5. Upon specific notification by the Department, 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. Domestic use is for 3 homes and does not include lawn, garden, landscape, or other types of irrigation.
7. Place of use for irrigation use is located within Lots 6-9 and portion of Lower Landing Strip, HES 701, Copenhaver Subdivision.
8. Place of use for domestic use is located within Lots 6-8, HES 701, Copenhaver Subdivision.
9. The right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
10. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
11. The right holder shall maintain a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.
12. The right holder shall maintain a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least ten times the diameter of the conduit and shall be above ground or otherwise easily accessible.
13. This right does not grant any right-of-way or easement across the land of another.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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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 change1. APPLICANT(S) Copenhafer Water Users Association #1 Inc. Phone 208-467-42302. MAILING ADDRESS 2607 S. Sienna Dr. City NampaState ID Zip 83686 Email bnlhoward@gmail.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) 77-14327☒ 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 0.20 cubic feet per second and/or _____ 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	1/4	1/4	1/4	County	Source	Local name or tag #
23N	08E	6		SE	NE		Idaho	S. Fork Salmon River	
23N	08E	6		SE	NE		Idaho	S. Fork Salmon River	

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:

Existing - Surface Pump with screened intake from S. Fork Salmon River

Addition - Sump with electric pump (Identical to Water Right 77-14328)

- b. Who owns the property at the point(s) of diversion? Copenhagen Ranch Subdivision common ground
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Deeded Utility Easement

- 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 $\frac{1}{4}$ $\frac{1}{4}$ 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]

Signature of applicant or authorized agent

Brian M. Howard

Print name and title if applicable

Pres.

10-10-13

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 5 pages of attachments. Received by MG Date 10/11/13

Fee paid 200 Date 10/11/13 Received by MG Receipt # W041576

Preliminary review completed by Vicky Murgic Date 12-9-13

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/4/2013

Water Right 77-14327

Owner Type **Name and Address**
Current Owner COPENHAVER WATER USERS ASSN #1 INC
C/O BRIAN M HOWARD
2607 S SIENNA DR
NAMPA, ID 83686
(208)467-4230

Priority Date: 9/9/2009

Basis: License

Status: Active

Source **Tributary**
SOUTH FORK SALMON RIVER SALMON RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	10/31	0.060 CFS	6.0 AF
DOMESTIC	01/01	12/31	0.080 CFS	1.8 AF
Total Diversion			0.140 CFS	7.8 AF

Source and Point(s) of Diversion

SOUTH FORK SALMON RIVER SENE Sec. 6, Twp 23N, Rge 08E, IDAHO County

Place Of Use

DOMESTIC within IDAHO County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	08E	6				X													

IRRIGATION within IDAHO County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	08E	6				2.0													2.0

POU Total Acres: 2.0

Conditions of Approval:

1. X60 Place of use for irrigation use is located within Lots 6-9 and portion of Lower Landing Strip, HES 701, Copenhaver Subdivision.
2. X60 Place of use for domestic use is located within Lots 6-8, HES 701, Copenhaver Subdivision.
3. WB5 Domestic use is for 3 homes and does not include lawn, garden, landscape, or other types of irrigation.
4. 198 When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
5. 103 When ordered by the Director, the right holder shall provide mitigation acceptable to the

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/4/2013

- Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
6. 197 Upon specific notification by the Department, 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.
 7. 029 The right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
 8. R66 This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the lands above.
 9. 195 The right holder shall maintain a lockable device, subject to the approval of the Department, in a manner that will provide suitable control of the diversion.
 10. 196 The right holder shall maintain a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least ten times the diameter of the conduit and shall be above ground or otherwise easily accessible.
 11. 004 This right does not grant any right-of-way or easement across the land of another.

Comments:

1. shemenway 12/15/2011 Field Report Narrative
The screened intake/POD from the South Fork of the Salmon River is shared by 77-14272 Howard, and 77-14327. There is a 5.5 Hp Tsurumi Honda Pump A33876, a 1 1/2 inch discharge which splits and reduces to 2 individual lines: a 1 1/2 inch fire hose (for irrigation for water right 77-14327), and a buried 1 1/4 inch poly line (shared by both 77-14272 and 77-14327). The 1 1/4 inch poly line runs down the front of Lots 6 - 9, then is stubbed into Lots 6 - 9 with 3/4 inch poly pipe. There is a buried 1 1/4 inch poly line that is located near the lot 8 and lot 9 property line, on Lot 9. The 1 1/4 inch line goes to a frost free hydrant, which is used for irrigation and fire protection on water right 77-14327. A 3/4 inch poly line is stubbed into the house on Lot 9, and also onto Lots 6 - 8. Water right 77-14272 covers the domestic internal use for lot 9, and the irrigation of lawn, garden and surrounding areas are covered under the irrigation component on water right 77-14327. Mr Howard intends on selling either lot 9 or lot 10, and he wanted to make sure there was adequate water for each lot. From the 1 1/2 inch collapsible fire hose, it discharges into a 3 inch PVC irrigation/fire main, with a riser located between lots 10 and 11 (for fire protection emergencies only), between lots 8 and 9 (fire and irrigation), and between 6 and 7 (fire protection and irrigation). Additional hose can be attached at each of the riser with movable 1/2 inch rainbirds, capable of running 2 at one time at 80 psi. The rainbirds irrigate area on the individual lots and on the lower landing strip. Between Lot 6 and 7 is a buried 1 1/4 inch poly line that goes up the hillside, where the future water storage tanks will be located. The buried 2 inch PVC between Assoc. #1 and Assoc. #2 has a control valve that is locked, and is not used unless there is a fire emergency and additional water is needed (see 1/11/2012 email from Brian Howard). Otherwise, they want Assoc. #1 and Assoc. #2 to always remain separate systems, and not backup systems to each other.

2. shemenway 12/29/2011 POD/POU Location

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/4/2013

Per management, the legal was determined by drawing the quarter quarter lines down, and going with the Homestead Entry Survey. For this reason, the legal for both the POD and POU is SENE.

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WATER RESOURCES
WESTERN REGION

3. shemenway 12/29/2011 Ownership

Acreage irrigated on the landing strip is owned by the Copenhaver Homeowners Association. Area irrigated around the individual homes, is owned by individual lot owners.

4. shemenway 12/29/2011 POD
Updated Shape

5. shemenway 12/29/2011 POD
Updated PLS

8. shemenway 1/17/2012 POD Overlap
77-14272 (domestic internal use only for L9, irrigation component is covered by water right 77-14327).

7. shemenway 1/17/2012 POU
Updated PLS

6. shemenway 1/18/2012 POU Overlap
L6 water right 77-7377 (Cherry Springs, a low producing spring for domestic use); L9 water right 77-14272 (same source, for domestic internal use only); L9 and L10 water right 72-7359 (South Fork Salmon River but different POD, for domestic 1 home internal/external use); L9 and L10 water right 77-7366 (Cherry Springs, a low producing spring for domestic 1 home, internal/external use). Brian Howard is either selling lot 9 or 10, and will file a transfer at that time.

9. shemenway 1/18/2012 CFS
Physical measurement from frost-free hydrant:
(5 gal X 60 sec)/4 sec = 75 gpm X 0.00223 = 0.17 cfs

Theoretical:
(8.8 X 5.5 Hp X 0.70 eff)/[10 ft + 980 psi X 2.31) = 0.17 cfs

Capacity of system is 0.17 cfs

Domestic 3 homes (L6, 7 & 8) Max. Instantaneous Water Requirement Internal Use Only: 0.08 cfs

Irrigation (area around homes for yards/gardens, and lower landing strip):
2 acres X 0.03 = 0.06 cfs

RECOMMEND:
Domestic 0.08 cfs
Irrigation 0.06 cfs
Total Diversion Rate 0.14 cfs

10. shemenway 1/18/2012 Volume

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/4/2013

Irrigation:

$0.06 \text{ cfs} \times 1.9835 \times 230 \text{ days} = 27.4 \text{ af}$

$2 \text{ acres} \times 3 \text{ req} = 6.0 \text{ af}$

$V = 6.0 \text{ af}$

Domestic 3 homes (internal use only):

$0.6 \times 3 = 1.8 \text{ af}$

RECOMMEND:

Irrigation 6.0 af

Domestic 1.8 af

Total Annual Volume 7.8 af

11. shemenway 1/18/2012 Locable Device
When the pump is not being used, it is locked in the shop.

Dates and Other Information

Licensed Date: 1/19/2012

Generic Max Rate Per Acre: 0.030

Generic Max Volume Per Acre: 3.0

Mitigation Plan: False

Combined Use Limits

N/A

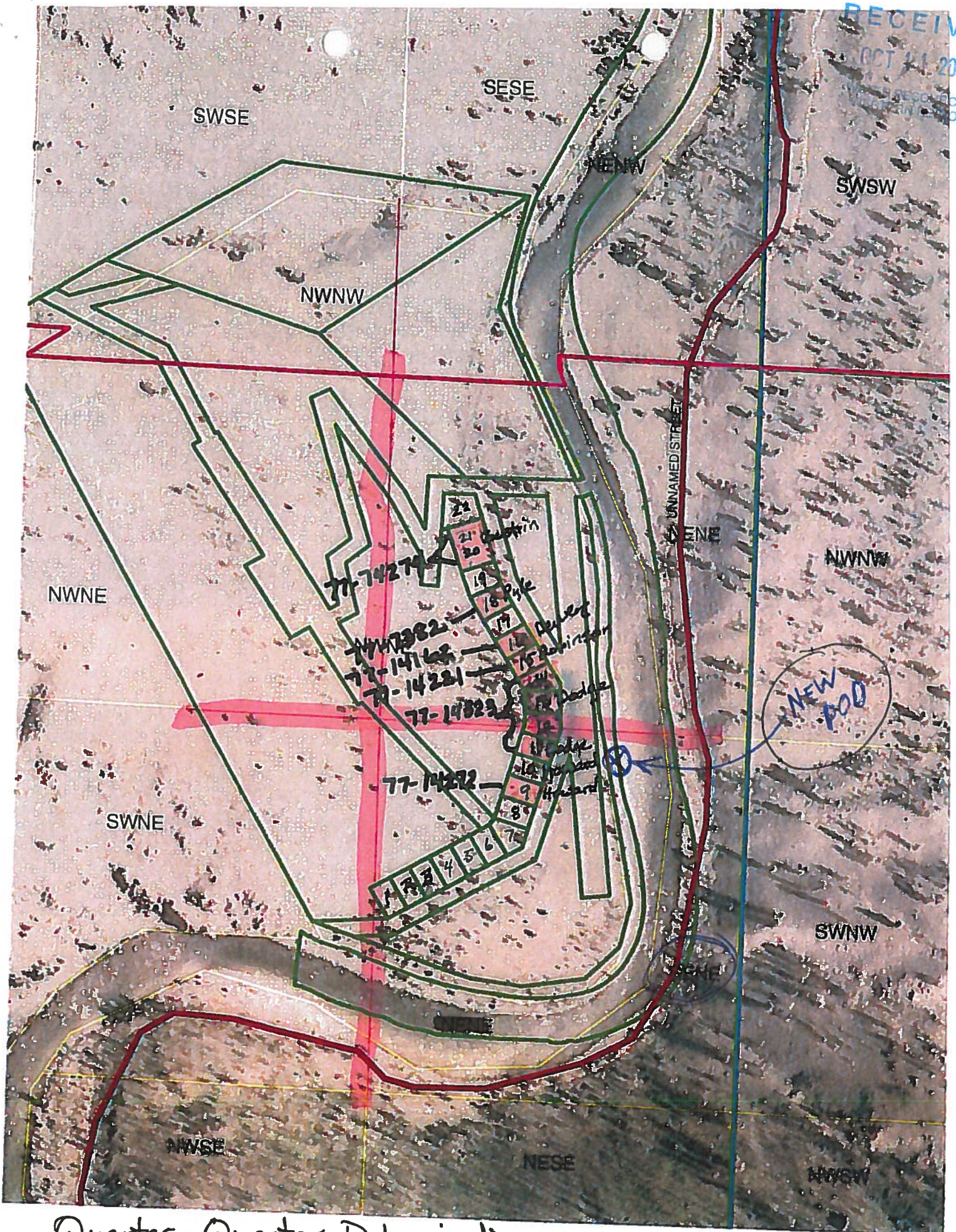
SubCase:

N/A

Water Supply Bank:

N/A

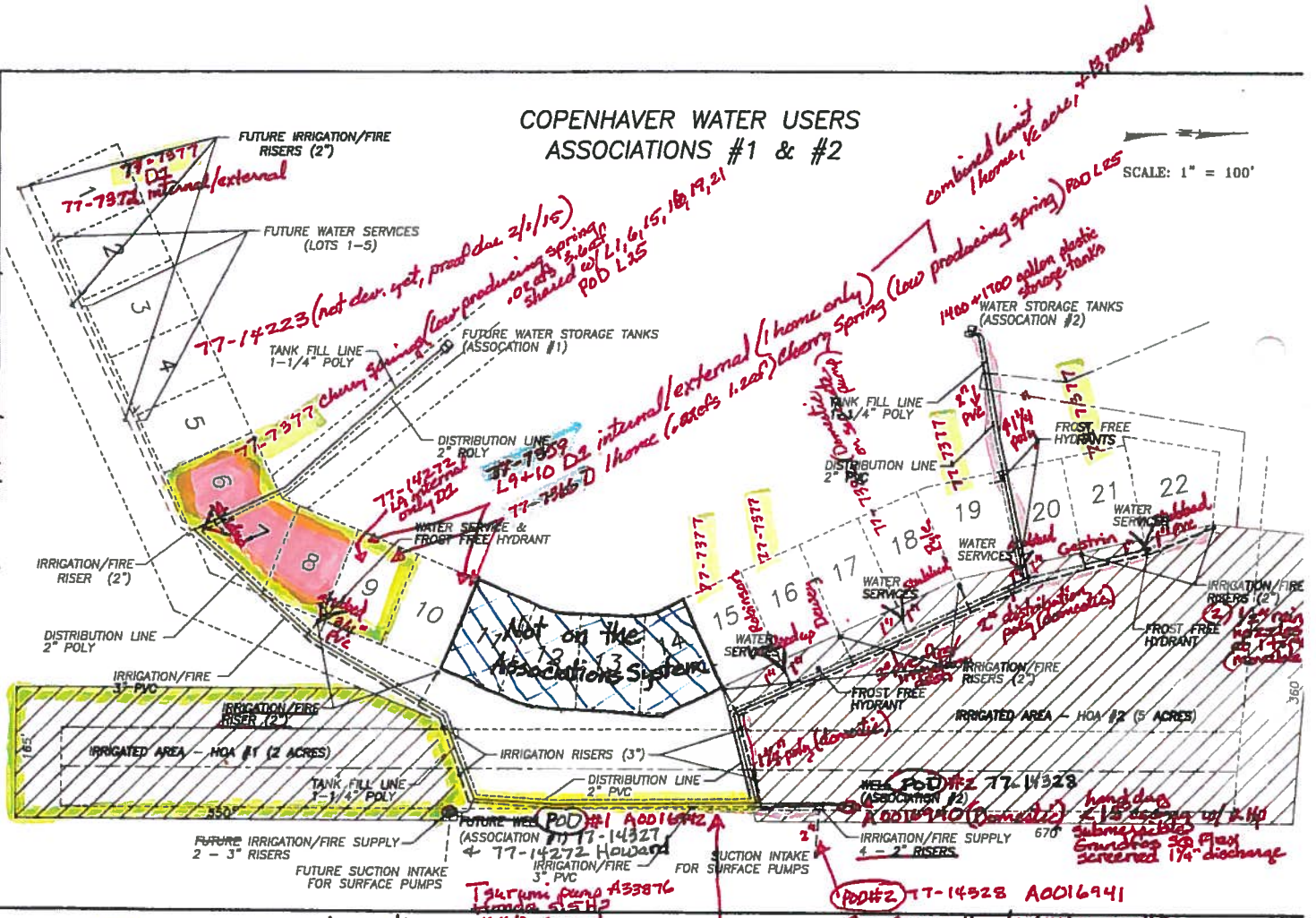
THE RESOURCES
IN THE REGION



Quarter-Quarter Determination

COPENHAVER WATER USERS ASSOCIATIONS #1 & #2

SCALE: 1" = 100'



- = 77-14327 irrigation
- = 77-14327 Domestic (internal use only)

Tsurumi pump A33876
1 1/2" discharge
screened intake

This line is only to interconnect the systems for fire suppression emergencies (see 1/14/2012 em)

POD#2 77-14328 A0016941

Gas pump Honda 6x160 g. SHP
2" discharge North Star model 10620
Max. head 187' 10" lift
screened intake



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

December 23, 2013

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

COPENHAVER WATER USERS ASSN 1 INC
C/O BRIAN M HOWARD
2607 S SIENNA DR
NAMPAL ID 83686

Re: Transfer No. 78884
Water Right No. 77-14327

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 that reads "Rachel Sommer". The signature is written in a cursive style with a large, looping "R" at the beginning.

Rachel Sommer
Administrative Assistant

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No. 78884
Water Right No.77-14327**

**COPENHAVER WATER USERS ASSN 1 INC
C/O BRIAN M HOWARD
2607 S SIENNA DR
NAMPA ID 83686**



**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 File No. 78884
FROM: Vicky Music
DATE: December 11, 2013
RE: Evaluation of Application

The transfer proposes to add a second point of diversion on the S. Fork of the Salmon River to water right no. 77-14327. The right authorizes internal domestic use for 3 homes, and the irrigation of 2 acres in the Copenhaver Ranch Subdivision. The site is about 0.75 miles south of the confluence of the S. Fork and the main stem of the Salmon River [vicinity of Mackey Bar].

Contact person is the applicant.

Deviations from Transfer Policy Standards

The simpler short transfer form was used and it was filled out completely. The applicant made an error in application item no. 4, and stated the total amount of water to be transferred is 0.20 cfs. However, the total quantity authorized by the right is 0.14 cfs. It is clearly a typographical error and will not interfere with application processing.

The transfer proposes adding as the second POD, an infiltration galley or sump, just a few feet away from the original POD. The galley will be about 15 feet deep, and as it draws water into it, the water is filtered through the river sands.

Summary of Information Submitted

Authority to File:

As the owner of record of the water right to be transferred, the applicant has the authority to file the application.

Water Right Validity:

Right presumed to be valid because the license was issued within the past five year period. SRBA is not applicable to this right developed after 1987.

Injury to Other Water Rights:

The 2 points of diversion will be adjacent to each other, and there is not expected to be any injury to other water users.

Enlargement of Use:

No enlargement is expected or proposed.

Local Public Interest:

There are no apparent public interest issues at this point.

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.

Additional Information/Analysis and Discussion

The subdivision is in the area for which Wild and Scenic and msf processing is required for applications. However, Conditions 4 through 10 on the water right license thoroughly cover all Basin 77 issues. No additional information is needed from the applicant or other IDWR programs.

Watermaster comments – there is not a water district.

Data entry affected the correct record. The water right was licensed in 2009. SRBA status was mentioned above in this memo.

No. 77-14272 for 0.02 cfs is a POD overlap at the original POD. It belongs to Brian Howard, the President of the water users association and the person who signed this application. The applicant owns the POD overlap at the proposed POD, 77-14328. No. 77-7335 appears to be a partial POU overlap and is owned by Diane B Smith. The source for this right is a spring. All of these rights in this immediate area are for use in the Copenhaver Ranch Subdivision.

Mitigation is not an issue. Additionally, there are no Water Bank issues.

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 N/A because new well(s) are not proposed.