

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT
TRANSFER NO. 78855

AMENDED

This is to certify that: STATE OF IDAHO
DEPT OF PARKS & RECREATION
PO BOX 83720
BOISE, ID 83720-0065

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>
51-7009	WR/DECREED	12/14/1967	0.130 cfs	22.0 af	4.0	1560.0	GROUND WATER
51-7026	WR/DECREED	8/19/1968	0.360 cfs	50.0 af	10.0	1560.0	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>
51-7009	NO	NO	YES	YES	NO	NO
51-7026	NO	NO	YES	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>
51-7009	51-7009	0.130 cfs	22.0 af	4.0	1560.0	N/A	N/A	N/A	N/A	N/A
51-7026	51-7026	0.360 cfs	50.0 af	10.0	1560.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.490 cfs	72.0 af	14.0	1560.0		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 21th day of November, 2013.


Western Regional Manager

Transfer No. 78855

WATER RIGHT NO. 51-7009**As Modified by Transfer No. 78855**

In accordance with the approval of Transfer No. 78855, Water Right No. 51-7009 is now described as follows:

Right Holder: STATE OF IDAHO
DEPT OF PARKS & RECREATION
STATEHOUSE MAIL
PO BOX 83720
BOISE, ID 83720-0065

Priority Date: 12/14/1967

Source: GROUND WATER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
DOMESTIC	1/01	to 12/31	0.130 cfs	4.0 af
IRRIGATION	4/01	to 9/30	0.080 cfs	18.0 af
			0.130 cfs	22.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 11 Twp 06S Rge 06E	OWYHEE County
GROUND WATER	SWSW	Sec 12 Twp 06S Rge 06E	OWYHEE County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	06E	10																X	
06S	06E	11											X	X			X	X	
06S	06E	12											X	X					
06S	06E	13		X	X		X	X	X	X	X	X	X	X		X	X		
06S	06E	14	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
06S	06E	15	X			X									X			X	

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	
06S	06E	10																	40.0
06S	06E	11											40.0	40.0			40.0	40.0	160.0
06S	06E	12											40.0	40.0					80.0
06S	06E	13		40.0	40.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0		40.0	40.0		480.0
06S	06E	14	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	06E	15	40.0			40.0									40.0			40.0	160.0

Right Acre Limit: 4.0
POU Total Acres: 1560.0

Transfer No. 78855

WATER RIGHT NO. 51-7009
As Modified by Transfer No. 78855

CONDITIONS OF APPROVAL

1. Domestic use is for campgrounds at Bruneau Dunes State Park.
2. This right is limited to the irrigation of 4 acres within the authorized place of use in a single irrigation season.
3. This right is limited to the irrigation of a specific 4 acres within the 1560 acre place of use authorized by this right in a single irrigation season. The specific 4 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 4 acres to be irrigated within the 1560 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and 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 before 4/1 and after 9/30 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than December 1, 2000.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
6. The right holder shall accomplish the change authorized by this transfer within five years of the date of this 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.

WATER RIGHT NO. 51-7026
As Modified by Transfer No. 78855

In accordance with the approval of Transfer No. 78855, Water Right No. 51-7026 is now described as follows:

Right Holder: STATE OF IDAHO
 DEPT OF PARKS & RECREATION
 STATEHOUSE MAIL
 PO BOX 83720
 BOISE, ID 83720-0065

Priority Date: 8/19/1968

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	4/15	to 10/15	0.360 cfs	50.0 af
			0.360 cfs	50.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 11 Twp 06S Rge 06E OWYHEE County
GROUND WATER	SWSW	Sec 12 Twp 06S Rge 06E OWYHEE 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	
06S	06E	10																	40.0
06S	06E	11											40.0	40.0			40.0	40.0	160.0
06S	06E	12											40.0	40.0					80.0
06S	06E	13		40.0	40.0		40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0		40.0	40.0		480.0
06S	06E	14	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	640.0
06S	06E	15	40.0			40.0									40.0			40.0	160.0

Right Acre Limit: 10.0
 POU Total Acres: 1560.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 10 acres within the authorized place of use in a single irrigation season.
2. This right is limited to the irrigation of a specific 10 acres within the 1560 acre place of use authorized by this right in a single irrigation season. The specific 10 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 10 acres to be irrigated within the 1560 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.

Transfer No. 78855

WATER RIGHT NO. 51-7026
As Modified by Transfer No. 78855

CONDITIONS OF APPROVAL

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and 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 before 4/15 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than December 1, 2000.
5. The right holder shall accomplish the change authorized by this transfer within five years 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.
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.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 11, 2013

STATE OF IDAHO
DEPT OF PARKS & RECREATION
PO BOX 83720
BOISE ID 83720-0065

Re: Transfer No. 78855
Water Right No's: 51-7009, 51-7026

Amended Transfer Approval Notice

Dear Water Right Holders:

The Department has enclosed the Amended approved Transfer of Water Rights. Please notice the change in the acre limit for water right 51-7026. This limit has been corrected and changed from a 4 acre limit to a 10 acre limit.

If you have any questions, please contact me at 208-334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Sommer". The signature is written in dark ink and is positioned below the "Sincerely," text.

Rachel Sommer
Administrative Assistant

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2013 I mailed a true and correct copy, postage prepaid, of the foregoing AMENDED TRANSFER APPROVAL to the persons listed below:

Re: Transfer No. 78855
Water Right No's: 51-7009, 51-7026

STATE OF IDAHO
DEPT OF PARKS & RECREATION
PO BOX 83720
BOISE ID 83720-0065

STATE OF IDAHO
ANN Y VONDE
DEPUTY ATTORNEY GEN
PO BOX 83720
BOISE ID 83720-0010



Rachel Sommer
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.

Lester, Steve

From: Lester, Steve
Sent: Thursday, November 07, 2013 1:51 PM
To: 'Vonde, Ann'
Subject: RE: Bruneau Sand Dunes Water Right Transfer

Hi Ann:

As we just discussed on the phone, the typo should be corrected with an amended transfer approval that we will send soonest. Your email acts like a petition to reconsider so we can correct the error -- you don't need to submit anything else. The amended approval will be a new preliminary order with a new 14 day response period. Of course, no response means everything is ok.

The possible extended irrigation season that was already on the rights may prove helpful sometimes for the park.

And finally, a more substantial correction/concern about an approval under a preliminary order would require a petition to reconsider via a letter or other format more formal than email ... "motion to reconsider" is sometimes filed.

I enjoyed working with you on this one. Please let me know if you need any water right etc. information/help in the future.

Regards,

Steve

From: Vonde, Ann [<mailto:ann.vonde@ag.idaho.gov>]
Sent: Thursday, November 07, 2013 10:18 AM
To: Lester, Steve
Cc: 'Connie Vaughn'
Subject: RE: Bruneau Sand Dunes Water Right Transfer

Hello Steve, *to fix*

I received a copy of the Transfer Approval Notice for IDPR's Bruneau Sand Dunes water rights 51-7009 and 51-7026. I'm not sure exactly what the procedure is, but I found a couple things that may need to be fixed/discussed.

- 1) On Transfer No. 78855 for water right 51-7026, the "Right Acre Limit" under the Place of Use says 4.0. This right should be limited to 10 acres, not 4 acres. Just a minor typo.
- 2) I noticed that a condition has been placed on the rights concerning the irrigation period of use. We hadn't discussed that condition and I was just wondering why it was put on the rights and what exactly it means. Could you let me know what that condition is about?

Other than that I think they look good. If there is a more formal process for this please let me know.

Thanks, *discussed - already on rights per TRSA ✓*

Ann Vonde
Deputy Attorney General
Natural Resources Division
Office of Attorney General

this part of notes

P.O. Box 83720
Boise ID 83720-0010
(208) 334-4141
fax (208) 854-8072
ann.vonde@ag.idaho.gov

From: Lester, Steve [<mailto:Steve.Lester@idwr.idaho.gov>]
Sent: Monday, September 23, 2013 8:30 AM
To: Vonde, Ann
Subject: RE: Bruneau Sand Dunes Water Right Transfer

Ann:

OK, I made the switch, looking good.

Steve

From: Vonde, Ann [<mailto:ann.vonde@ag.idaho.gov>]
Sent: Friday, September 20, 2013 4:04 PM
To: Lester, Steve
Subject: RE: Bruneau Sand Dunes Water Right Transfer

Hello Steve,

Since I sent this last version of the application Parks and Rec made some changes to the place of use it would like to use. It also changed the current place of use map. So could you please substitute the following for the documents I send you on 9/11?

1. Current Place of Use Map
2. Place of Use Supplemental Sheet
3. Place of Use Map.

Please let me know if you have any questions. I look forward to finally getting this filed!

Thanks,

Ann Vonde
Deputy Attorney General
Natural Resources Division
Office of Attorney General
P.O. Box 83720
Boise ID 83720-0010
(208) 334-4141
fax (208) 854-8072
ann.vonde@ag.idaho.gov

From: Vonde, Ann
Sent: Wednesday, September 11, 2013 11:49 AM
To: 'steve.lester@idwr.idaho.gov'
Cc: 'Connie Vaughn'
Subject: Bruneau Sand Dunes Water Right Transfer

Hello Steve,

Please find attached an updated draft of IDPR's Water Right Transfer Application for Bruneau Sand Dunes State Park. Could you please look it over and let me know if there is anything missing or anything that needs to be corrected? Once I have your okay we will send the final application along with a check for \$500.

Thanks,

Ann Vonde

Deputy Attorney General
Natural Resources Division
Office of Attorney General
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