

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78308

This is to certify that: JOHN POWERS AND
PATRICK POWERS
PO BOX 493
MACKAY, ID 83251

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>
34-440B	WR/DECREED	4/22/1884	4.000 cfs	N/A	N/A	292.0	BIG LOST RIVER
34-2365	WR/DECREED	5/4/1960	2.700 cfs	430.5 af	N/A	123.0	GROUND WATER
34-637C	WR/DECREED	6/1/1888	1.600 cfs	N/A	N/A	123.0	BIG LOST RIVER
34-638A	WR/DECREED	10/12/1884	1.060 cfs	N/A	53.0	123.0	BIG LOST RIVER
34-7239A	WR/LICENSE	1/22/1980	2.120 cfs	899.9 af	N/A	299.0	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>
34-440B	NO	YES	YES	YES	NO	NO
34-637C	NO	YES	YES	NO	NO	NO
34-638A	NO	YES	YES	NO	NO	NO
34-2365	NO	NO	YES	NO	NO	NO
34-7239A	NO	NO	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>
34-440B	34-440B	4.000 cfs	0.0 af	292.0	431.0	N/A	N/A	N/A	N/A	N/A
34-2365	34-2365	2.700 cfs	430.5 af	123.0	431.0	N/A	N/A	N/A	N/A	N/A
34-637C	34-637C	1.600 cfs	0.0 af	123.0	431.0	N/A	N/A	N/A	N/A	N/A
34-638A	34-638A	1.060 cfs	0.0 af	53.0	431.0	N/A	N/A	N/A	N/A	N/A
34-7239A	34-7239A	2.120 cfs	899.9 af	299.0	431.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		9.64 cfs	N/A	431.0	431.0		N/A	N/A	N/A	N/A

SUPPORT DATA

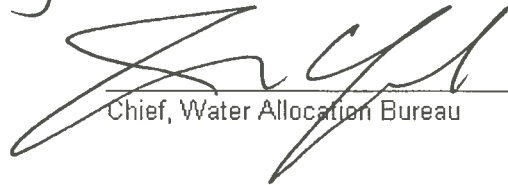
IN FILE # 34-440B

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 78308

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 18th day of January, _____.



Chief, Water Allocation Bureau



WATER RIGHT NO. 34-440B

As Modified by Transfer No. 78308

In accordance with the approval of Transfer No. 78308, Water Right No. 34-440B is now described as follows:

Right Holder: JOHN L POWERS
PO BOX 493
MACKAY, ID 83251

Priority Date: 4/22/1884

Source: BIG LOST RIVER

Tributary: SINKS

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	5/01	to 10/15	4.000 cfs
STOCKWATER	1/01	to 12/31	0.020 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG LOST RIVER	NWSESE	Sec 12	Twp 07N	Rge 23E	CUSTER County
BIG LOST RIVER	NWSESW	Sec 20	Twp 07N	Rge 24E	CUSTER 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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	27			26.8		11.4	35.6	36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	28	39.6	20		15.8													75.4
07N	24E	34		15.3															15.3

Right Acre Limit: 292.0

POU Total Acres: 431.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	24E	21									X			X		X	X	X	
07N	24E	22											X						
07N	24E	27			X		X	X	X	X	X	X		X		X	X		
07N	24E	28	X	X		X													
07N	24E	34		X															

Right Acre Limit: 292.0

POU Total Acres: 431.0

CONDITIONS OF APPROVAL

1. Rights 34-440B, 34-638A, 34-637C, 34-2365 and 34-7239A when combined shall not exceed the irrigation of 431 acres.

WATER RIGHT NO. 34-440B

As Modified by Transfer No. 78308

CONDITIONS OF APPROVAL

2. Rights 34-440B and 34-7239A when combined shall not exceed a total annual maximum diversion volume of 1078 af at the field headgate and the irrigation of 308 acres.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
5. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. Water is delivered through the Sharp Ditch or the Swauger Ditch.
8. Stockwater use is for 500 sheep and 50 cattle.
9. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.
10. The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.
13. This right is limited to the irrigation of 292 acres within the authorized place of use in a single irrigation season.
14. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

WATER RIGHT NO. 34-2365

As Modified by Transfer No. 78308

In accordance with the approval of Transfer No. 78308, Water Right No. 34-2365 is now described as follows:

Right Holder: JOHN POWERS
PATRICK POWERS
PO BOX 493
MACKAY, ID 83251

Priority Date: 5/4/1960

Source: GROUND WATER

BENEFICIAL USE **From** **To** **Diversion Rate** **Diversion Volume**
IRRIGATION 4/01 to 10/31 2.700 cfs 430.5 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNWSE Sec 27 Twp 07N Rge 24E CUSTER 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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	27			26.8		11.4	35.6	36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	28	39.6	20		15.8													75.4
07N	24E	34		15.3															15.3

Right Acre Limit: 123.0

POU Total Acres: 431.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 123 acres within the authorized place of use in a single irrigation season.
2. Rights 34-638A, 34-2365 and 34-637C when combined shall not exceed a total diversion rate of 3.52 cfs and the irrigation of 123 acres.
3. Rights 34-440B, 34-638A, 34-637C, 34-2365 and 34-7239A when combined shall not exceed the irrigation of 431 acres.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.

WATER RIGHT NO. 34-2365

As Modified by Transfer No. 78308

CONDITIONS OF APPROVAL

5. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point of diversion in accordance with Department specifications.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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.
9. Prior to the diversion and use of water under Transfer approval 78308, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
10. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

WATER RIGHT NO. 34-637C

As Modified by Transfer No. 78308

In accordance with the approval of Transfer No. 78308, Water Right No. 34-637C is now described as follows:

Right Holder: JOHN POWERS
PATRICK POWERS
PO BOX 493
MACKAY, ID 83251

Priority Date: 6/1/1888

Source: BIG LOST RIVER

Tributary: SINKS

BENEFICIAL USE
IRRIGATION

From 5/01 **To** 10/15 **Diversion Rate**
1.600 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG LOST RIVER NWSESE Sec 12 Twp 07N Rge 23E CUSTER County
BIG LOST RIVER NWSSEW Sec 20 Twp 07N Rge 24E CUSTER 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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	27			26.8		11.4	35.6	36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	28	39.6	20		15.8													75.4
07N	24E	34		15.3															15.3

Right Acre Limit: 123.0

POU Total Acres: 431.0

CONDITIONS OF APPROVAL

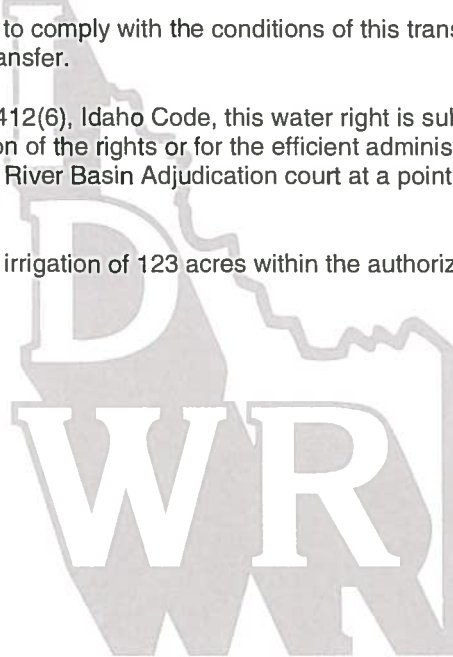
1. Rights 34-440B, 34-638A, 34-637C, 34-2365 and 34-7239A when combined shall not exceed the irrigation of 431 acres.
2. Rights 34-638A, 34-2365 and 34-637C when combined shall not exceed a total diversion rate of 3.52 cfs and the irrigation of 123 acres.
3. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.

WATER RIGHT NO. 34-637C

As Modified by Transfer No. 78308

CONDITIONS OF APPROVAL

5. The appropriator is entitled to the amount described at the point of measurement in T07N, R24E, S28, NESWSE, when water is diverted at the point of diversion in T07N, R24E, S20, NWSESW.
6. Water is delivered through the Sharp Ditch or the Swauger Ditch.
7. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.
10. This right is limited to the irrigation of 123 acres within the authorized place of use in a single irrigation season.



WATER RIGHT NO. 34-638A

As Modified by Transfer No. 78308

In accordance with the approval of Transfer No. 78308, Water Right No. 34-638A is now described as follows:

Right Holder: JOHN POWERS
PATRICK POWERS
PO BOX 493
MACKAY, ID 83251

Priority Date: 10/12/1884

Source: BIG LOST RIVER

Tributary: SINKS

BENEFICIAL USE
IRRIGATION

From 5/01 **To** 10/15 **Diversion Rate** 1.060 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG LOST RIVER NWSESE Sec 12 Twp 07N Rge 23E CUSTER County
BIG LOST RIVER NWSESW Sec 20 Twp 07N Rge 24E CUSTER 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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	27			26.8		11.4	35.6	36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	28	39.6	20		15.8													75.4
07N	24E	34		15.3															15.3

Right Acre Limit: 53.0

POU Total Acres: 431.0

CONDITIONS OF APPROVAL

1. Rights 34-440B, 34-638A, 34-637C, 34-2365 and 34-7239A when combined shall not exceed the irrigation of 431 acres.
2. Rights 34-637C, 34-638A and 34-2365 when combined shall not exceed a total diversion rate of 3.52 cfs and the irrigation of 123 acres.
3. This right is limited to the irrigation of 53 acres within the authorized place of use in a single irrigation season.
4. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.

WATER RIGHT NO. 34-638A

As Modified by Transfer No. 78308

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversions.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. The period of use for irrigation described above may be extended in seasons of unusual characteristics to a beginning date of 04-20 and an ending date of 10-31 at the discretion of the Director of the Idaho Department of Water Resources.
8. Water is delivered through the Sharp Ditch or the Swauger Ditch.
9. The appropriator is entitled to the quantity of water described above at the point of measurement in T07N, R24E, S28, NESWSE, when water is diverted at the point of diversion in T07N, R24E, S20, NWSESW.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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. 34-7239A

As Modified by Transfer No. 78308

In accordance with the approval of Transfer No. 78308, Water Right No. 34-7239A is now described as follows:

Right Holder: JOHN L POWERS TRUST
PO BOX 493
MACKAY, ID 83251

Priority Date: 1/22/1980

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

2.120 cfs

Diversion Volume

899.9 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
GROUND WATER

NENE
NESW

Sec 28 Twp 07N Rge 24E CUSTER County
Sec 21 Twp 07N Rge 24E CUSTER 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	
07N	24E	21									17.4		24		4.3	17.3	6.6		69.6
07N	24E	22											1.8						1.8
07N	24E	27			26.8		11.4	35.6	36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	28	39.6	20		15.8													75.4
07N	24E	34		15.3															15.3

Right Acre Limit: 299.0

POU Total Acres: 431.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 299 acres within the authorized place of use in a single irrigation season.
2. Rights 34-440B and 34-7239A when combined shall not exceed a total annual maximum diversion volume of 1078 af at the field headgate and the irrigation of 308 acres.
3. Rights 34-440B, 34-638A, 34-637C, 34-2365 and 34-7239A when combined shall not exceed the irrigation of 431 acres.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. If right 34-440B is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used to irrigate more than 16 acres without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

WATER RIGHT NO. 34-7239A

As Modified by Transfer No. 78308

CONDITIONS OF APPROVAL

6. The right holder shall make full beneficial use of right 34-440B for irrigation of the lands authorized 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.
7. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 34.
8. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
9. Prior to the diversion and use of water under Transfer approval 78308, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
10. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized points of diversion in accordance with Department specifications.
11. This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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.