

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77843

This is to certify that: PARKLANE CO INC
 817 W FRANKLIN ST
 BOISE ID 83702
 (208)345-3221

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 Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-12593	WR/License	07/28/2000	0.33 cfs	239 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

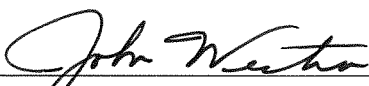
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-12593	NO	NO	NO	YES	NO	NO

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>
63-12593	63-12593	0.33 cfs	239 af	N/A			N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.33 cfs	239 af	N/A			N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 7th day of November, 20 12


 John Westra, Western Regional Manager

WATER RIGHT NO. 63-12593
As Modified by Transfer No. 77843

In accordance with the approval of Transfer No. 77843, Water Right No. 63-12593 is now described as follows.

Right Holder: PARKLANE CO INC
 817 W FRANKLIN ST
 BOISE ID 83702

Priority Date: July 28, 2000

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
HEATING	01/01	to 12/31	0.33 CFS	239.0 AF
COOLING	01/01	to 12/31	0.33 CFS	239.0 AF
			0.33 CFS	239.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NENW Sec. 10 Twp 03N Rge 02E ADA County

GROUND WATER NENW Sec. 10 Twp 03N Rge 02E ADA County

PLACE OF USE: HEATING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 02E 10					X												

PLACE OF USE: COOLING

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 02E 10					X												

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. Use of water under this right shall be non-consumptive regarding the Boise River when evaluated with the aquifer presumed to be tributary to the river.

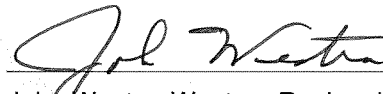
WATER RIGHT NO. 63-12593
As Modified by Transfer No. 77843

CONDITIONS OF APPROVAL

4. Water diverted and beneficially used under this right shall be discharged to the Boise River.
5. Water bearing zone to be appropriated is from 106 to 288 feet.
6. 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 determine the amount of water diverted from power records and shall annually report the information to the department.
7. Diversion and use of water with a temperature greater than 85 degrees Fahrenheit is not authorized under this right.
8. This right does not grant any right-of-way or easement across the land of another.
9. Heating and cooling uses are for the Idanha hotel.

This water right 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.

Dated this 7th day of November, 20 12



John Westra, Western Regional Manager



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
Interim Director

November 8, 2012

PARKLANE CO INC
817 W FRANKLIN ST
BOISE ID 83702

RE: Transfer No.: 77843
 Water Right No(s): 63-12593

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

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 homepage 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 cursive script, appearing to read "John Westra". Below the signature, the letters "FDV" are handwritten in a smaller, blocky font.

John Westra

Western Regional Manager

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77843
WATER RIGHTS NOS. 63-12593

PARKLANE CO INC
817 W FRANKLIN ST
BOISE ID 83702

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706

A handwritten signature in cursive script, appearing to read "Mandi Pearson", is written over a horizontal line.

Mandi Pearson
Office Specialist II

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.

October 12, 2012

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR, ID 83669-0767

RE: Applications for Transfer Nos. 77843

Dear Watermaster:

A copy of the above referenced application(s) is enclosed with this email. Please review the application(s) and provide your comments, if any, to this office within 14 days.

If the application(s) is approved, IDWR will include appropriate standard conditions of approval for a water right located within your water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application(s) should be specifically addressed in your recommendation.

Your prompt response to this request will ensure your recommendation will be considered. If IDWR has not received your written recommendation within 14 days, IDWR will presume you do not oppose approval of the application(s).

Sincerely,

Mandi Pearson
Office Specialist II

MEMORANDUM

TO: Transfer No. 77843 File

FROM: Angie Grimm

DATE: October 5, 2012 Amended November 6, 2012

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add the existing injection well as an alternate PD for right 63-12593. Also, the applicant proposes to discharge the spent water from the heating and cooling system to the Boise River via a storm drain rather than injecting the water into the shallow aquifer via the applicant's injection well. This change necessitates removing the condition requiring reinjection of water diverted. Also, condition 027 will be modified to highlight non-consumptive use when the river and aquifer are viewed together. Otherwise, it would appear the proposed change would be consumptive for the aquifer. The water bearing zone condition will also be modified, should this transfer be approved, to account for diversion from the proposed additional PD (former injection well).

The site is the Idanha Hotel in downtown Boise at 928 W Main St on the northeast corner of the intersection of N 10th St and Main St.

Contact person for the applicant is Lori Graves, SPF Water Engineering LLC.

Deviations from Transfer Policy Standards

The transfer application was received at the State Office on January 13, 2012, prior to licensing of right 63-12342. The current policy is to return such applications, but this transfer and fee were receipted and held until the right was licensed on March 23, 2012. Since the right has been licensed, the transfer can now be processed. Initial data entry of this transfer did not occur until the application was forwarded to the Western Region Office for processing on March 28, 2012.

Summary of Information Submitted

Authority to File: The applicant is the current owner on record. The applicant has authority to change its own right. The applicant is authorized to do business in the State of Idaho as they are registered with Idaho Secretary of State under Organizational ID C79894. Ada Co taxlot data indicates Idanha Associates LLC is the current property owner. Idaho Secretary of State information for Idanha Associates LLC indicates Ken Howell (sole owner of Parklane Company Inc) is the president of Idanha Associates LLC. Considering Ken Howell is the president of both companies (transfer applicant and property owner), clear applicant has authority to file this transfer application.

Water Right Validity: Right presumed to be valid based on license issued 3/23/2012, within the past five year period. SRBA is not applicable to this right developed after 1987.

Injury to Other Water Rights: Adding the injection well as an alternate PD will not likely injure other water rights considering the total diversion from both PDs will be limited to the currently authorized diversion rate and volume. As a ground water right, use of the existing and proposed PDs is subject to reasonable pumping level provisions of I. C. § 42-226. The existing and proposed PDs are within the Boise Front Ground Water Management Area (GWMA), but these wells are less than 300 ft deep and therefore are not subject to this GWMA's management plan.

The applicant proposes to cease reinjection of the discharge water from the heating and cooling system into the shallow aquifer. This could potentially cause a reduction in quantity of water available to other shallow aquifer rights nearby. The applicant submitted a substantial analysis of nearby wells, radius of impact, drawdown estimates, etc for a similar transfer application (Transfer No. 76971) proposing the same changes to the heating and cooling system wells at the Union Block Building only 700 ft away from this application's wells. A copy of this data was submitted to address similar concerns for this transfer application via the representative's correspondence dated January 12, 2012. This data indicates injury is not likely to occur "...because (1) the aquifer is productive and (2) area water levels are not declining." It is unlikely the applicant ceasing to reinject the spent cooling water will reduce the quantity of water available below that authorized for diversion or historically beneficially used by shallow ground water rights or wells in the area. See Review Memo for Transfer No. 76971 for further explanation.

The proposed additional PD is on the same 0.2 acre parcel. The potential production zone of this well is from 106 ft to 158 ft (screened interval of this well 118 to 158 ft, but 6 in. casing in 6 in. borehole ends at 106 ft with no annular seal below 20 ft). The current PD's production zone/screened interval is from 200 ft to 288 ft. The proposed PD would divert water from a shallower WB zone than the current production well, i.e. from the shallow aquifer considered tributary to the Boise River. Although water right diversions from the zones above 200 ft and below 200 ft are administrated differently in this area, the well log for the current production well indicates there is no significant non-water bearing confining layer at 200 ft (zone from 165 ft to 223 ft is a water bearing gray clay & sand layer). Considering there is no significant confining layer present at 200 ft, it is reasonable to assume in this case that zones above and below 200 ft may be in communication with each other. Therefore, withdrawing water from the shallower zone (106 ft to 158 ft) should not be considered withdrawal of water from a different aquifer source than the current production well (200 ft to 288 ft).

The applicant proposes diversion (from the proposed additional PD) within the area where ground water shallower than 200 ft is considered tributary to the fully appropriated reach of the Boise River. Rights in this area typically require some form of mitigation to avoid injury to the river. The applicant proposes to discharge the spent water to the Boise River via an Ada County Highway District (ACHD) storm drain directly east of the wells where the potential cone of depression pulls water from the Boise River during pumping (per information submitted by the applicant's representative for Transfer No. 76971). Discharge of the spent water directly into the river via the ACHD storm drain will likely benefit Boise River water rights more directly than injection into the shallow ground water zone would. Therefore, no injury with respect to Boise River water rights should occur.

Enlargement of Use: The applicant does not propose to increase the diversion rate or diversion volume. The heating and cooling use under this right, i.e. the method/diversion works of the heat exchange unit, will not change as a result of this transfer. The heating and cooling use itself will remain non-consumptive. The applicant is seeking approval to discharge the spent water more

efficiently, i.e. to the storm drain instead of into the injection well. Discharge directly to the river (via the storm drain) instead of into the shallow ground water production zone will not result in an enlargement of the right, because the shallow ground water is considered tributary to the Boise River, i.e. the water that was reinjected is presumed to eventually discharge to the Boise River.

Local Public Interest: Authorizing the applicant to cease injection into a problematic injection well and use that well as an additional PD for this system will allow the applicant to divert the authorized amount of water to make full beneficial use of the system under the right. The applicant's development of a more efficient system serves the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Discussion

Data entry affected the water right record for right 63-12593. This right, licensed on March 23, 2012, was developed after 1987 and therefore is not subject to the SRBA.

There are no overlapping rights at the existing or proposed PDs. Water provided via United Water Idaho Inc. for uses other than heating and cooling within the building is the only other right(s) used within the PU. No changes are proposed to the PU of the right proposed for transfer.

This application proposing addition of an existing well within 80 ft of the current PD with no enlargement of use proposed does not require advertisement. Water District 63 Watermaster was sent a comment letter to inform him of the proposal to divert shallow ground water considered tributary to the Boise River and directly discharge that water to the Boise River. The Department received no comments in response indicating the watermaster has no concerns at this time per the correspondence sent.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the transfer application can be approved as reflected by the draft approval.