

AMENDED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

AMENDED

## TRANSFER OF WATER RIGHT

TRANSFER NO. 72373

This is to certify that: DRY CREEK PARTNERS

C/O BILL NOVINGER

1598 E 1330 S

GOODING ID 83330

(208)934-4448

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>  |
|--------------|---------------------|-----------------|-------------|---------------|-------------------|--------------------|----------------|
| 37-865A      | WR/Decreed          | 04/01/1905      | 1.03 cfs    | 154.2 af      | N/A               | N/A                | BIG WOOD RIVER |
| 37-865B      | WR/Decreed          | 04/01/1905      | 4.57 cfs    | 914.4 af      | N/A               | 228.6              | BIG WOOD 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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-865A               | NO           | NO         | YES        | NO             | NO                   | YES                  |
| 37-865B               | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-865A                | <b>37-865A</b>                   | 1.03 cfs             | 201.6 af               | 47.4              | 47.4               |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| 37-865B                | <b>37-865B</b>                   | 4.57 cfs             | 914.4 af               | 228.6             | 228.6              |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>5.6 cfs</b>       | <b>1116 af</b>         | <b>276</b>        | <b>276</b>         |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

Detailed Water Right Description(s) attached

Dated this 15<sup>th</sup> day of June, 2012
  
 Southern Region Manager

SUPPORT DATA

IN FILE # 37-865A

**WATER RIGHT NO. 37-865A**  
**As Modified by Transfer No. 72373**

In accordance with the approval of Transfer No. 72373, Water Right No. 37-865A is now described as follows.

**Right Holder:** DRY CREEK PARTNERS  
 C/O BILL NOVINGER  
 1598 E 1330 S  
 GOODING ID 83330

**Priority Date:** April 01, 1905

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| WILDLIFE STORAGE      | 03/15       | to 11/05  |                       | 12.0 AF       |
| IRRIGATION            | 03/15       | to 11/15  | 0.95 CFS              | 189.6 AF      |
| AESTHETIC STORAGE     | 03/15       | to 11/15  |                       | 12.0 AF       |
| DIVERSION TO STORAGE  | 03/15       | to 11/15  | 0.08 CFS              |               |
|                       |             |           | 1.03 CFS              | 201.6 AF      |

**LOCATION OF POINT(S) OF DIVERSION:**

BIG WOOD RIVER L2 (NWSWNW) Sec. 7 Twp 05S Rge 16E GOODING County

**PLACE OF USE:** WILDLIFE STORAGE

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 05S 14E 3   |    |    |    |    |    |    |    |    | X  |    |    |    |    | X  |    |    |        |

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |      |     | NW |    |    |    | SW |    |    |    | SE |    |     |    | Totals |
|-------------|----|----|------|-----|----|----|----|----|----|----|----|----|----|----|-----|----|--------|
|             | NE | NW | SW   | SE  | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW  | SE |        |
| 05S 14E 3   |    |    | 37.8 | 6.0 |    |    |    | .7 |    |    |    |    |    |    | 2.9 |    | 47.4   |

Total Acres: 47.4

**PLACE OF USE:** AESTHETIC STORAGE

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 05S 14E 3   |    |    |    |    |    |    |    |    | X  |    |    |    |    | X  |    |    |        |

**WATER RIGHT NO. 37-865A**  
**As Modified by Transfer No. 72373**

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 47.4 acres within the authorized place of use in a single irrigation season.
2. Rights 37-865A and 37-865B when combined for irrigation use shall not exceed a total diversion rate of 5.52 cfs for irrigation, a total annual maximum diversion volume of 1104.0 af for irrigation at the field headgate, and the irrigation of 276 acres.
3. Right 37-865A authorizes the diversion of 0.08 cfs and an annual total of 12.0 af to be used for the replacement of losses caused by evaporation from the 4.0 acre total surface area of the pond established under Right 37-8894.
4. The right holder shall retain the canal shares historically used on the 4.0 acres previously irrigated under this right within the confines of the remaining irrigation place of use of Rights 37-580, 37-865A & 37-865B and shall continue to allow the irrigation overflow to return to Black Canyon Creek.
5. 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. 37.
6. 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.
7. Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-W-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.
8. Water is delivered through the Robertson Ditch.
9. Use of this right is combined with water from American Falls Reservoir Dist. No. 2.
10. Use of this right is combined with water from Big Wood Canal Co.
11. This right does not grant any right-of-way or easement across the land of another.
12. 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 lands above when delivered via pump and pressurized irrigation system.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

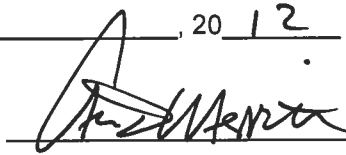
**WATER RIGHT NO. 37-865A**  
**As Modified by Transfer No. 72373**

**CONDITIONS OF APPROVAL**

15. 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.

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 15<sup>th</sup> day of June, 2012

  
Southern Region Manager

**WATER RIGHT NO. 37-865B**  
**As Modified by Transfer No. 72373**

In accordance with the approval of Transfer No. 72373, Water Right No. 37-865B is now described as follows.

**Right Holder:** DRY CREEK PARTNERS  
C/O BILL NOVINGER  
1598 E 1330 S  
GOODING ID 83330

**Priority Date:** April 01, 1905

**Source:** BIG WOOD RIVER

**Tributary:** MALAD RIVER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 03/15       | to 11/15  | 4.57 CFS              | 914.4 AF      |
|                       |             |           | 4.57 CFS              | 914.4 AF      |

**LOCATION OF POINT(S) OF DIVERSION:**

BIG WOOD RIVER L2 (NWSWNW) Sec. 7 Twp 05S Rge 16E GOODING County

**PLACE OF USE:** IRRIGATION

| Twp Rge Sec | NE |    |    |      | NW |    |    |      | SW   |     |    |    | SE   |      |      |      | Totals |
|-------------|----|----|----|------|----|----|----|------|------|-----|----|----|------|------|------|------|--------|
|             | NE | NW | SW | SE   | NE | NW | SW | SE   | NE   | NW  | SW | SE | NE   | NW   | SW   | SE   |        |
| 05S 14E 2   |    |    |    |      |    |    |    |      | 27.7 | 2.7 |    |    |      |      |      |      | 30.4   |
| 05S 14E 3   |    |    |    | 30.8 |    |    |    | 25.5 |      |     |    |    | 37.4 | 32.2 | 38.8 | 33.5 | 198.2  |

Total Acres: 228.6

**CONDITIONS OF APPROVAL**

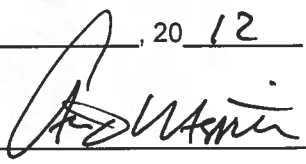
1. This right is limited to the irrigation of 228.6 acres within the authorized place of use in a single irrigation season.
2. Rights 37-865A and 37-865B when combined for irrigation use shall not exceed a total diversion rate of 5.52 cfs for irrigation, a total annual maximum diversion volume of 1104.0 af for irrigation at the field headgate, and the irrigation of 276 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. 37.
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. Delivery of this right is subject to the water exchange provisions contained in Bureau of Reclamation contract no. 14-06-W-73, executed October 14, 1954, between the United States of America and American Falls Reservoir District No. 2, as supplemented by Bureau of Reclamation contract no. 14-06-100-6031, executed June 1, 1962, between and among the United States of America, American Falls Reservoir District No. 2, and the Big Wood Canal Company.

**WATER RIGHT NO. 37-865B**  
**As Modified by Transfer No. 72373**

6. The right holder shall retain the canal shares historically used on the 4.0 acres previously irrigated under Right 37-865A within the confines of the remaining irrigation place of use of Rights 37-580, 37-865A and 37-865B and shall continue to allow the irrigation overflow to return to Black Canyon Creek.
7. Water is delivered through the Robertson Ditch.
8. Use of this right is combined with water from American Falls Reservoir Dist. No. 2.
9. Use of this right is combined with water from Big Wood Canal Co.
10. This right does not grant any right-of-way or easement across the land of another.
11. 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 lands above when delivered via pump and pressurized irrigation system.
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
13. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
14. 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.

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 15<sup>th</sup> day of June, 2012

  
\_\_\_\_\_  
Southern Region Manager