

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77915

This is to certify that: JOHN WIND JR And JAMIE WIND
1556 POEN RD
KUNA ID 83634
208-922-1703

have 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>
63-32160	WR/Decreed	05/10/1971	0.16 cfs	45 af	N/A	10.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

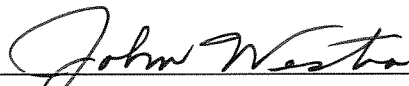
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-32160	NO	YES	NO	NO	NO	NO

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>
63-32160	63-32160	0.16 cfs	45 af	N/A	10.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.16 cfs	45 af	N/A	10.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 15th day of June, 20 12


Western Regional Manager

WATER RIGHT NO. 63-32160
As Modified by Transfer No. 77915

In accordance with the approval of Transfer No. 77915, Water Right No. 63-32160 is now described as follows.

Right Holder: JOHN WIND JR And JAMIE WIND
 1556 POEN RD
 KUNA ID 83634

Priority Date: May 10, 1971

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.16 CFS	45.0 AF
			0.16 CFS	45.0 AF

LOCATION OF POINT OF DIVERSION:

GROUND WATER L1 (NENE) Sec. 24, Twp 01N, Rge 01W, ADA County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01N 01W 13																10.0	10.0
																L 4	

Total Acres: 10

CONDITIONS OF APPROVAL

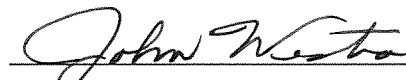
1. This transfer supersedes Transfer No. 73893.
2. This approval does not authorize the construction of a new well.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. Place of use is located within Lot 4, Blk. 1, Mustang Estates Subdivision.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 04/11/2007.
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.

WATER RIGHT NO. 63-32160
As Modified by Transfer No. 77915

7. The right holder shall accomplish the change authorized by this transfer within one year from the date of this approval.
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.

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 15th day of June, 20 12


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

June 15, 2012

JAMIE WIND
And
JOHN WIND JR
1556 POEN RD
KUNA ID 83634

RE: Transfer No.: 77915
Water Right No(s): 63-32160

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right. Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right 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", with the word "for" written below it.

John Westra

Western Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77915
WATER RIGHTS NOS. 63-32160

JAMIE WIND
1556 POEN RD
KUNA ID 83634

JOHN WIND JR
1556 POEN RD
KUNA ID 83634

A handwritten signature in cursive script, appearing to read 'Mandi Pearson', is written above 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.

MEMORANDUM

TO: Transfer No. 77915
FROM: Kay Walker *KW*
DATE: June 13, 2012
RE: Evaluation of Application

The transfer proposes to move water from a dairy system across the road to land that has been watered with a domestic well.

Water Right History

The prior land owner, Christopher Meier, had obtained approved Transfer 73893 that allowed drilling of an irrigation well on this property. Transfer 73893 was approved in December of 2007 with a condition requiring completion of the project within one year from date of approval. The irrigation well was not drilled and the only well for this property is a domestic well drilled in 1995 for Craig who owned the property prior to Meier. It has been 4.5 years since approval of Transfer 73893, and transfer 77915 proposes a different point of diversion than approved, so seeking more time to complete the transfer is not reasonable. Transfer 73893 might have been rescinded since it was not completed in a timely manner, however, we could allow the new transfer to supersede the prior approval without penalty to the right holders. The current owners purchased the property in 2009-2010 and were unaware of the history of Transfer 73893. The water right is still valid since it was decreed in 2007 (therefore covers that whole year) and late 2012 will be the end of the 5 year period that forfeiture could be found.

This transfer application proposes to utilize a well at the dairy facility across the road for irrigation of 10 acres on applicants parcel. The applicant has submitted an agreement from John Wind Sr. to allow use of his well for the irrigation of property owned by John Wind Jr. This transfer proposes an additional use of an existing system that serves other rights that are still pending in the Snake River Basin Adjudication. This transfer would not affect the validity of the other rights although it may result in new combined limits on the recommendations, if applicable.

This transfer does not need to be advertised since the prior transfer was advertised without protests, plus a new well is not being developed. We can expedite this application per email request dated May 14, 2012.

The site is located approximately 0.25 miles north of Poen Road and 0.75 miles east of Swan Falls Road.

Deviations from Transfer Policy Standards

This proposal was filed on the short transfer form since it is just adding a point of diversion to an existing right. Rt. 63-32160 contains a 10 acre tract description for the point of diversion based on approved Transfer 73893. Since no new well had been developed under the transfer it would be the domestic well drilled in 1995 that is proposed to be included. The applicant has included a well in this 10 acre tract description and indicated it is known as the homestead well. The applicant will need to upgrade the well to an irrigation well if they wish to include it in the application. After discussion with the applicant, it was determined that they only wished to utilize one of the wells under the dairy system, and did not want to include their domestic well. The applicant came into the office and amended the application to remove the other wells that were included on the form when it was submitted.

Summary of Information Submitted

Authority to File:

The applicant is the water right holder of record.

Water Right Validity:

Right presumed to be valid because the partial decree was issued within the past five year period, on April 11, 2007.

Injury to Other Water Rights:

No injury should occur since no new well is being developed.

Enlargement of Use:

No enlargement in use is proposed.

Local Public Interest:

It is within the local public interest to allow use of water to irrigate a property.

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.

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 since a new well is not proposed.

Walker, Kay

From: Walker, Kay
Sent: Friday, June 08, 2012 9:58 AM
To: Darwin Vanderstelt
Cc: Walker, Kay
Subject: RE: Water Transfer for John Wind

Mr. Wind said he would come by the office, once he had the well locations mapped, and he can amend the application at that time. We will just have him line through the "extra" wells, then date and initial the changes so we can proceed with the application.

Thanks, Kay

From: Darwin Vanderstelt [<mailto:dvs1@cableone.net>]
Sent: Friday, June 08, 2012 9:19 AM
To: Walker, Kay
Cc: AXION10@aol.com
Subject: RE: Water Transfer for John Wind

Thanks for the maps!

The reason I listed all the wells listed on all the dairy water rights is that we have been treating dairy water systems as one system, listing all wells and all PPOU's on every water right. The rationale for doing that is that wastewater from the lagoons is mixed with well water and distributed all over the farm. Consequently, I (mistakenly?) treated the water coming across the road from the dairy as coming from that system, not necessarily from a particular well. I can see that this is a little different situation though because the lot across the street has its own water right and they may just be taking water from a single well. Do you want me to change something on the application? Or can it just be done by John in your office?

Thanks!

Darwin Vander Stelt
Nutrient Management Service
208-465-9496

From: Walker, Kay [<mailto:Kay.Walker@idwr.idaho.gov>]
Sent: Thursday, June 07, 2012 11:43 AM
To: Darwin Vanderstelt
Cc: Walker, Kay
Subject: RE: Water Transfer for John Wind

Hi, Darwin!

I have attached the same 3 maps that I sent to the Winds for your use. I hope they come over ok. If not, let me know and I can print them out and mail them to you.

The transfer (No. 73954) that was filed by Pete De Groot Jr. in July of 2005 was held up due to the SRBA and then the ownership change added more complications. The transfer is back on the processing track now and there will be some correspondence regarding it soon.

For the transfer I am working on, No. 77915, we need to have the exact location of the well the Winds will be utilizing and the transfer application will need to be amended to remove the 6 wells that will not be included, pursuant to our

phone conversation with Mr. Wind last week. After the application is amended we will be able to continue with our review and final action.

Feel free to contact me if you have any more questions.

Thanks!
Kay Walker
Sr. Water Resource Agent
334-2190

From: Darwin Vanderstelt [<mailto:dvs1@cablone.net>]
Sent: Thursday, June 07, 2012 8:47 AM
To: Walker, Kay
Cc: AXION10@aol.com
Subject: Water Transfer for John Wind

Hi Kay!
John faxed a bunch of maps and a letter from you to me and asked me to look at them, however the maps don't fax well. Would it be possible for you to attach them to an email to me?

I'm really puzzled about the hold up on the 2005 transfer. It was so long ago I don't remember that there was any communication of a problem to me. Did it have to do with the change of ownership while the transfer was pending? Or maybe the adjudication? Six years is a long time for a transfer to sit in the drawer!

Is identification of the well sites and a signature all that is needed?

Thank you in advance for your help!

Darwin Vander Stelt
Nutrient Management Service
208-465-9496

Walker, Kay

From: Walker, Kay
Sent: Friday, June 01, 2012 2:24 PM
To: AXION10@aol.com
Cc: Walker, Kay; Collingwood, Rick
Subject: Maps for locating wells

Mr. and Mrs. Wind:

I have scanned in 3 maps for you. The first map is so you can get your bearings. The second map is for locating the well that you will be using to irrigate the property at your home. The third map is the location of the dairy. We have made this one larger so you might locate each of your wells for us. There is a transfer that was filed in 2005 that still has not been finalized and the location of the wells would be helpful for processing that.

As stated on the phone, we will still need to have the transfer application form amended so you can bring the map when you come into the office to make the changes to the form. If you have questions, feel free to call me, or Rick, at 334-2190.

Thanks,

Kay Walker

Sr. Water Resource Agent



Wind Maps.pdf