

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 77884

This is to certify that: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
1387 S VINNELL WAY
BOISE ID 83709-1657
(208) 373-3819

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>
55-12084	WR/Decreed	06/28/1934	0.02 cfs	N/A	N/A	N/A	UNNAMED STREAM

Purpose of Transfer (Changes Proposed)

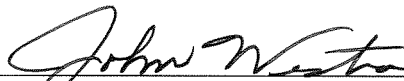
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
55-12084	NO	YES	NO	NO	NO	NO

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>
55-12084	55-12084	0.02 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.02 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 21st day of May, 2012



JOHN WESTRA, Western Regional Manager

WATER RIGHT NO. 55-12084
As Modified by Transfer No. 77884

In accordance with the approval of Transfer No. 77884, Water Right No. 55-12084 is now described as follows.

Right Holder: US DEPT OF INTERIOR
 BUREAU OF LAND MANAGEMENT
 1387 S VINNELL WAY
 BOISE ID 83709-1657

Priority Date: June 28, 1934

Source: UNNAMED STREAM

Tributary: ROCK CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
STOCKWATER	1/01 to	12/31	0.02 CFS
			0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED STREAM NWNW Sec. 15 Twp 07S Rge 03W OWYHEE County
 (Beginning of Reach)

UNNAMED STREAM NWSW Sec. 15 Twp 07S Rge 03W OWYHEE County
 (Ending of Reach)

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	03W	15						X	X				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. 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.
4. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.

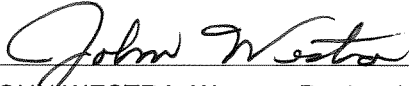
WATER RIGHT NO. 55-12084
As Modified by Transfer No. 77884

CONDITIONS OF APPROVAL

5. The quantity of water decreed for this water right is not a determination of historical beneficial use.
6. The quantity of water under this right shall not exceed 13,000 gallons per day.

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 21st day of May, 2012



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

May 24, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
1387 S VINNELL WAY
BOISE ID 83709-1657

RE: Transfer No.: 77884
Water Right No(s): 55-12084

Transfer Approval Notice

Dear Water Right Holder:

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 black ink, appearing to read "John Westra", with the word "for" written below it.

John Westra

Western Regional Manager

Enclosure(s)

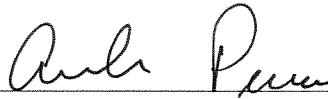
CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2012 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 77884

WATER RIGHTS NOS. 55-12084

**US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
1387 S VINNELL WAY
BOISE ID 83709-1657**

A handwritten signature in black ink, 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.

MEMORANDUM

TO: Transfer No. 77884
FROM: Sharla
DATE: May 15, 2012
RE: Evaluation of Application

The transfer proposes to change the diversion describing the point of beginning of the instream stockwater segment. The site is approximately 2 miles west of Spencer Reservoir and 3 miles southwest of Triangle Air Strip.

Deviations from Transfer Policy Standards

Since this transfer only proposes to change a point of diversion under the rights, the transfer will not be advertised.

Summary of Information Submitted

Authority to File: Applicant is the owner of record and is therefore authorized to file the transfer application.

Water Right Validity: Rights presumed to be valid. Confirmation of use by Fred Price of BLM (see emails between him and Steve Lester).

Injury to Other Water Rights: None anticipated.

Enlargement of Use: No enlargement will occur; the rates of diversion, volume and uses remain the same.

Local Public Interest: Free ranging cattle is considered to be in the local public interest within the state of Idaho.

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.

Lester, Steve

From: Price, Fredric W [fwprice@blm.gov]
Sent: Tuesday, May 08, 2012 4:49 PM
To: Lester, Steve
Subject: RE: BLM transfer application

Steve,

I can confirm use easily. I have to eyeball a document to confirm, so I might as well provide it to you. I'll get that to you tomorrow.

Thank you very much,
Fred

*This is OK confirmation even w/o
document - OK to process ASAP*
FL

From: Lester, Steve [mailto:Steve.Lester@idwr.idaho.gov]
Sent: Tuesday, May 08, 2012 8:47 AM
To: Price, Fredric W
Subject: BLM transfer application

Fred:

The BLM transfer application to shorten instream stockwater right 55-12084 can be processed once the following information is provided.

The right was decreed in 2000. To confirm validity of the right, please provide email confirmation that livestock used the creek sometime during 2007 through 2011 (5 year period prior to filing the transfer application). This could be verified by confirming an active grazing allotment sometime during that period for the location in question. It is not necessary to provide additional documents in this regard. Your statement will suffice without the need for more documentation.

Your prompt reply will allow us to process and approve the application without any legal notices being required. We could issue an approval in a very short time.

Without a written response within the next 30 days, the application will be rejected. Refunds are not issued for rejected applications. Please let me know if you have any questions or need additional help. Thanks for your attention to this.

Steve Lester
Water Rights Supervisor
IDWR Western Region
208-334-2190