

No Color
Documents
In File



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 20, 2003

DANIEL D MOSS
JANN MOSS
450 S 850 E
DECLO ID 83323

RE: Transfer No.: 70371 - Water Rights 43-2342, 43-2476B, 43-13268, 43-13269
Transfer Approval Notice

Dear Water Right Holder(s):

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.

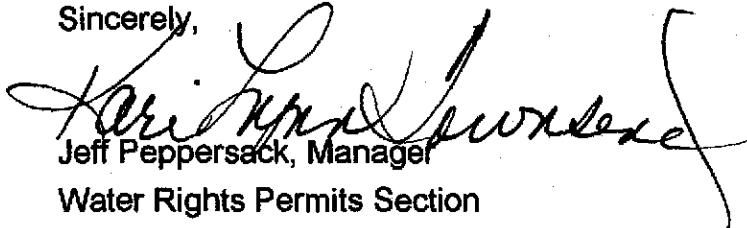
MICROFILMED

MAR 26 2003

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 208-327-7940.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Peppersack", is written over the typed name and title.

Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

MICROFILMED

MAR 26 2003

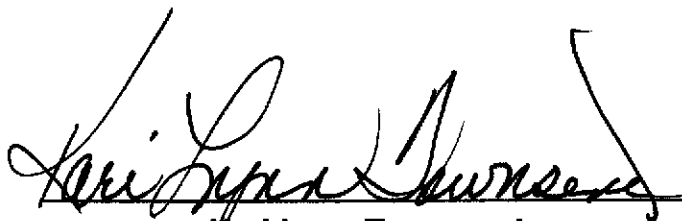
CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2003 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 70371

WATER RIGHTS 43-2342, 43-2476B, 43-13268, 43-13269

**DANIEL D MOSS
JANN MOSS
450 S 850 E
DECLO ID 83323**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

**Kari Lynn Townsend
Secretary**

MICROFILMED

MAR 26 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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. 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 Idaho Water Resource Board (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 issuance 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.

T# 70371

43-2342 etc

INIT.	DATE	COMMENT
MB	1/21/03	Staffed to Corey Skinner
CS	1/21/03	GAVE TO MARY FOR ADVERTISING.
MB	1/22/03	Adv. Sch SP 1/30 + 2/18/03; 2/18/03 LTR. to APP.
CS	1/30/03	SPOKE WITH TERESA HALE (LAWYER FOR LIENHOLDER) REGARDING TRANSFER.
MB	2/11/03	Pub. off. rec. (2/10/03)
MB	2/25/03	to ADM for signoff
CS	2/26/03	RECEIVED ~~ASSIGNMENT~~ LETTER FROM LIENHOLDER
AD-	3/18/	POU ID = 675447 ✓ 675448 ✓ 675451 ✓
		POD ID 583984 ✓ 583985 ✓ 583988 ✓
		Recommend Approval
AD-	3/18/03	To MB to forward to J.O.

TRANSFER REVIEW SHEET

Trans # 70371

Date Reviewed 1/21/2003

Right No(s)* Y3-2342 Y3-2476B
Split? Y XN Y XN Y XN Y XN Y XN Y XN

AREA OF CONCERN: No/Yes RAFT RIVER CGWA
MORATORIUM AREA

PURPOSE OF TRANSFER FOR EACH RIGHT:
Change p/d Change p/u
Add p/d Change use period Change nature of use

RightID's of From & To records correct? XY N (resolve with S.O.)
Check for Partial Decree issuance, etc. since time of application's entry

PROOF OF OWNERSHIP COMPLETE FOR OLD & NEW P/U X Lien Holder Release

GROUNDWATER:
DRILLING PERMIT
All wells -046 NO CHANGE, BUT JUST IN CASE
DP upgrade req'd Y N (contact GW)
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
WMB
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or 01Q
SUPPLEMENTAL - 065-104 (where irrigation is the only use)
SUPPLEMENTAL - 100-105 (where there are other uses besides irrigation)

SURFACE WATER:
WD - R05 (WD#) WM comments rec'd
≤ 0.20 cfs/others - R02, 01P or No MD
> 0.20 cfs - R43
WB, SPRINGS/SINK, INACTIVE WD & REST OF STATE
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or 01Q
STANDARD SEASON 3/15 to 11/15 (use X61 if extended season)
STANDARD VOLUME 4 af/ac
CONSUMPTIVE USE VOLUME 3 af/ac

WITHIN ESPA - 113-114-116 (mitigation)
- 115 (meas. Device)

USES:
STORAGE - 18C-R02-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
Volume only - R58/R59/R60/R61
STOCKWATER - R37 (all BLM/USFS)
MINING - 054-106
FISH PROP - 029 (70's basins only)-007-122-106
HEAT/COOL - R07 (injection well)
FIRE PROT. - 077
DAIRY - 082 (zoning if a concern)-106-WD8

USES:
POWER - 17H-17K (+uses)-025-106
MUNICIPAL
Restricted area - 022-075 RAFN - 007-109-X64
Irr, GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
- 27A (Payette River)
> 1 in restricted area - 070-071-075 (no parks/common areas, etc)
Irr use listed separate - WB5

MISC CONDITIONS/REMARKS:

T07 - 1 yr to develop
T08 - comply or rescind
T17 - >1 pd, measure all (use w/ WB4)
T18 - Special T17 & R43 combined - multiple pds in WD
Protested - 020-X19
Water Quality - 106-R07
X27 - Number of acres/season in ppu
X35 - Combined totals of multiple rts

X49 - measure p/d's (source chg'd to orig trib)
X51 - 2+ yrs to develop
X53 - Use ltd to orig. source availability
X54 - forfeited ac/rate (used rarely)
X55 - (transfer shrinks total water to less ac)
004 - no right-of-way
X58 - pending claim (statutory or AJ b/u claim)
X61 - extended irr season
X62 - replaces N11 and N13
X63 - replaces C12
WB4 - + p/ds, cfs & afa (used with T17)
WD8 - land application of waste water
01Q - used instead of 01M when there's another meas. Cond (i.e. T17 & 01M)

Apply one to chg'd & unchg'd rts that are subject to SRBA:
T09 - on-going SRBA (no Dir Rpt or Recomm yet)
T19 - replaces C18 (if at Recommendation or Partial Decree stage)
T20 - use only on unchg'd rts not subject to SRBA

OTHER CONDITIONS/REMARKS NONE

COMMENTS NONE

Database files updated PS Approval form printed PS Shape files created PS
Special Mailing Instructions (cc's, etc) NONE
Final database update after approval PS *Comment to WR No(s). RIGHTS ARE WATER RIGHTS
3-19-03

IDWR TRANSFER ANALYSIS SHEET

APPLICANT DANIEL T. ~~JOSS~~ ^{FOR} JANN MOSS TRANSFER NO. 70371

1. Right number(s) 43-2342, 43-2476 B (PART)

2. Type of right ☒ Decree ☐ License ☐ Statutory Claim
☐ SRBA Beneficial Use Claim

3. Purpose of transfer ☒ Change P/D ^{43-2476B} ☐ Add P/D ☒ Change P/U ^{NO}
☐ Change N/U ☐ Change Source ☒ Split Right 43-2476 B
☐ Other: _____

4. Check Existing Right: ☒ Source ☒ Priority ☒ Amount ☒ Purpose
☒ Period ☒ SRBA Claim
☒ Description of original point(s) of diversion
☒ Description of original place of use
☒ Overlapping rights on original place of use

Comments: RIGHTS DECREED IN SRBA, NO OVERLAPPING

RIGHTS

5. Check Proposed Right for amount of land &/or water transferred:

☒ Also see attached memo for more analysis information

- a. ☒ All of right 43-2342
- b. ☒ Part of right (NOTE! Part B should be filled in only if part of right is owned by the applicant) 43-2476 B
- c. ☒ Description of point(s) of diversion
- d. ☒ Description of place of use
- e. ☒ Map showing P/D & P/U after transfer
- f. ☒ Correct notarized signature and \$100 fee
- g. ☒ Proof of ownership of right &/or land from which water is transferred
- h. ☒ Expansion in use of right - Comments: _____

NONE APPARENT

i. X

Existing rights from same source, on land water is being transferred to; right number(s): _____

NONEj. X

SRBA claim(s) - Comments (NOTE! Approved transfer amends SRBA claim; differences between existing water right and SRBA claim? any ownership or other outstanding issues? Explain) _____

DECREEDk. X

Comment letters

If yes

X

Yes

No

NEED

Water District #

Lienholder, others, see #2 Per 2/24/03
below for name and addressDECREEDINITIAL ALLOCATION REVIEW BY C. SKINNER

SRBA SUPERVISOR REVIEW BY _____

PUBLICATION REVIEW BY _____

DATE

01/21/2003

DATE

DATE

1.

copy of app. sent to S.O.

Yes

2. COMMENT LETTERS

copy of Pg 1 to AJ Yes4/23/03

Watermaster recommendation requested on _____, Received on _____

Other comments letters - send to the following name(s) & address(es):

3. Transfer published correctly?

Yes

No

4. Affidavit of publication received?

Yes

No

5. Protests received?

YesNo

Acknowledgement sent?

Yes

6. Copies made for Region file (see attached supplemental page)?

Yes**RECOMMENDED ACTION**1. ✓ Approve2. Deny due to _____

3. Conditions (special conditions in Water Districts) _____

Also see attached memo for recommendation dated: _____

4. By APRDate 3/18/03

NOTICE OF PROPOSED CHANGE TO WATER RIGHTS

Notice is hereby given that an Application for Transfer has been filed with the Idaho Department of Water Resources for changes to water rights within Cassia County:

DANIEL D. &/OR JANN MOSS, 450 S 850 E; DECLO ID 83323 filed Application No. 70371 on 1/16/03 for diversion of a combined total of 6.66 cfs from ground water. Transfer proposes transferring acres (pivot corners) from two farms to new lands to be irrigated. Acres will be transferred from a farm located between Highway 81 and Interstate 84, approximately 11.25 miles to 12.25 miles North and 1.0 mile to 1.5 miles West of Malta and a second farm located approximately 8.75 miles to 9.25 miles North and 2.5 miles to 3.0 miles East of Malta. Water from an existing well located along Highway 81 approximately 11.75 miles North and 1.5 miles West of Malta will be used to irrigate the new land between Highway 81 and Interstate 84, approximately 11.25 miles to 11.75 miles North and 0.5 miles to 1.0 mile West of Malta.

For specific details regarding the application(s), please contact IDWR Southern Regional Office at 208-736-3033 or visit www.idwr.state.id.us with detail provided under "New Water Right Applications". Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Protests against approval must be filed with IDWR, Southern Region, 1341 Fillmore St.-Suite 200; Twin Falls, ID 83301 with a protest fee of \$25.00 for each application on or before February 18, 2003. The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Published in the South Idaho Press on 1/30 & 2/6/03.

MICROFILMED

MAR 26 2003

OK
ADM
1/22/03

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET-STE# 200
TWIN FALLS ID 83301

Phone: 736-3033

Fax: 736-3037

January 22, 2003

ATTN KAY MOORE
SOUTH IDAHO PRESS
230 E MAIN ST
BURLEY ID 83318

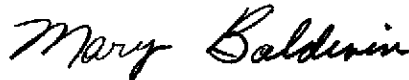
Dear Ms. Moore:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues).

If you cannot publish the notice on the proposed dates, please contact us immediately at 736-3033.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Sincerely



Mary A. Baldwin
Administrative Assistant

MICROFILMED
MAR 26 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 22, 2003

DANIEL D. &/or JANN MOSS
450 S 850 E
DECLO ID 83323

RE: Application for Transfer No. 70371

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your application. Please refer to the number in all correspondence regarding the above referenced application.

This office has scheduled advertising the application in the South Idaho Press on 1/30 & 2/6/03. The advertisement will be published for two weeks, and a period of ten calendar days following the second publication will be allowed for the submittal of protests. (February 18, 2003)

If an application is protested, the applicant will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

The department's review process may have to include field investigation and verification of the claims which is required as part of the Snake River Basin Adjudication.

Please be advised that a notarized statement from any lien holder on the property is needed before the application can be forwarded to our State Office for final action.

State Office personnel will conduct a complete review prior to final processing of the application(s) and will notify the applicant regarding the outcome of this review.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,

Mary A. Baldwin
Administrative Assistant

MICROFILMED

MAR 26 2003

MEMORANDUM

Date: January 21, 2003
To: Transfer 70371 File
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Transfer 70371, filed by Daniel &/or Jann Moss, proposes drying up acres (pivot corners) from two farms for the irrigation of some new land between Highway 81 and Interstate 84, approximately 11.25 miles to 11.75 miles north and 0.5 miles to 1.0 mile west of Malta. The transfer proposes splitting 28 acres (0.56 cfs) from right 43-2476B and transferring these amount to an existing irrigation system currently described by right 43-2342. In addition, 54 acres (pivot corners) under right 43-2342 will be changed to new land to be combined with the 28 acres from 43-2476B (Total of 82 acres) for the irrigation of new land under a new pivot sprinkler system. The rights involved with the transfer have been partially decreed in the SRBA.

- **Authority to File:**
Applicant is listed as the current owner on recently issued SRBA decrees and IDWR records. In addition, tax notices filed with the application verify ownership of the land involved with transfer.
- **Water Right Validity:**
Rights involved with transfer were recently decreed in the SRBA. Forfeiture does not appear to be an issue.
- **Injury to Other Water Rights:**
Diversions will occur in same general area before and after transfer. Water to be used for original use (irrigation) in same general area as pre transfer conditions.
- **Enlargement of Use:**
No apparent increase in use proposed.
- **Local Public Interest:**
No negative impacts anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Sprinklers are used for irrigation for more efficient use.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

MICROFILMED
MAR 26 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 43-2342 V1

WATER RIGHT NUMBER: 43-2342 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DANIEL D MOSS 450 S 850 E DECLO, ID 83323 (208)654-2848
Original Owner	SEIJI ENDOW 2069 E 400 S DECLO, ID 83323 (208)349-5779
Current Owner	JANN MOSS 450 S 850 E DECLO, ID 83323 (208)654-2848

6/28/2002

Priority Date: 04/24/1950

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	6.100 CFS	1,240.00 AF
<u>Total Diversion:</u>		6.100 CFS	1,240.00 AF

Location of Point(s) of Diversion

GROUND WATER NW1/4NW1/4SE1/4 Sec. 10, Twp 11S, Rge 26E, B.M.
CASSIA County

WELL

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	
11S	26E	10	36.0	37.0	39.0	40.0					40.0	39.0	39.0	40.0					310.0
			4	5	7	8					8	7	7	8					54 acres
Total Acres:	310		32	32	32	32					32	32	32	32					

Sec 11

9 18 35 20

82 acres

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:

32

28 acres from other farms

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 43-2342 V1

Comments:

1. GIVENS 7/5/1994 OWNERSHIP CHANGE

Comment: CHANGE OF OWNERSHIP RECEIVED 03/08/93 ORIGINAL OWNER SEJI ENDOW NEW OWNERS DANIEL D OR JANN MOSS. ORIGINAL OWNER SIGNED FORM.

2. jroberts 1/30/2001 copied from remarks

Comment: TRANS. 1892 DENIED, 9-8-1975.^^^ ***** OWNERSHIP CHANGE 7/5/94 BY JG.^^^

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag: NONE RECEIVED

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False