

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**TRANSFER OF WATER RIGHT**  
TRANSFER NO. 71070

This is to certify that: SUPERIOR L & L LLC  
3100 W 1000 S  
ABERDEEN ID 83210

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> |
|--------------|---------------------|-----------------|-------------|---------------|-------------------|--------------------|---------------|
| 35-13491     | WR/Decreed          | 06/09/1977      | 0.08 cfs    | 20.0 af       | N/A               | 5.0                | GROUND WATER  |

**Purpose of Transfer (Changes Proposed)**

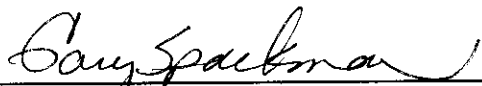
| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 35-13491              | NO           | YES        | 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> |
|-----------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 35-13491              | <b>35-13491</b>                  | 0.08 cfs             | 18.0 af                | N/A               | 4.5                |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED</b>       |                                  |                      |                        |                   |                    |                                    |                       |                         |                             |                              |
| <b>TOTALS</b>         |                                  | <b>0.08 cfs</b>      | <b>18.0 af</b>         | <b>N/A</b>        | <b>4.5</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 28<sup>th</sup> day of October, 2004

  
\_\_\_\_\_  
Chief, Water Allocation Bureau

**WATER RIGHT NO. 35-13491**  
**As Modified by Transfer No. 71070**

In accordance with the approval of Transfer No. 71070, Water Right No. 35-13491 is now described as follows.

**Right Holder:** CARL K HENSEN And/Or  
 TINA M HENSEN  
 PO BOX 125  
 ABERDEEN ID 83210-0125

**Priority Date:** June 09, 1977

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01       | to 11/01  | 0.08 CFS              | 18.0 AF       |
|                       |             |           | 0.08 CFS              | 18.0 AF       |

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

GROUND WATER      SWSW      Sec. 11 Twp 04S   Rge 33E   BINGHAM 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 |        |
| 04S | 33E | 11  |    |    |    |    |    |    |    |    |    |    |    | 4.5 |    |    |    |    | 4.5    |

Total Acres: 4.5

**CONDITIONS OF APPROVAL**

- Beginning on the date of approval of Transfer 71070, Right 35-13491 is limited to the following schedule of allowed diversion volume. The diversion of water shall be evenly distributed throughout the authorized season of use, except that minor variations are allowed for seasonal fluctuations in water requirements. The right holder shall file a notice of intent with the Department prior to increasing the annual diversion volume each time an increase according to the schedule is sought.  
 Year 2004 the right is limited to 2.0 afa.  
 Year 2005 the right is limited to 7.5 afa.  
 Years 2006 through 2007 the right is limited to 9.0 afa.  
 Years 2008 through 2010 the right is limited to 12.0 afa.  
 Years 2011 through 2023 the right is limited to 15.0 afa.  
 Years 2024 and beyond the right is limited to 18.0 afa.
- The model used to calculate depletion effects and mitigation for the Shelley to Neeley reach may also show gains in other reaches of the Snake River. Such gains have not been quantified at this time. The right holder retains the right to seek quantification of such gains resulting from Transfer approval 71070. Protestants retain the right to object to the quantification of such gains. If such reach gains are quantified and acknowledged by the Department, credits for such gains shall be available for use only after the Department has implemented a system for administering such credits.

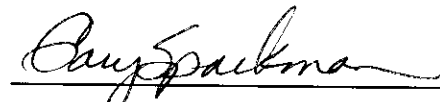
**WATER RIGHT NO. 35-13491**  
**As Modified by Transfer No. 71070**

**CONDITIONS OF APPROVAL**

3. Prior to the diversion and use of water under Transfer approval 71070, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
4. 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. 120.
5. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of 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.
10. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

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 28<sup>th</sup> day of October, 2004

  
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Chief, Water Allocation Bureau