

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86671**

This is to certify that: **MAHOGANY RIDGE DAIRY FARM LLC**
799 THOMAS FORK LN
GENEVA, ID 83238-4100

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 Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
11-124	WR/DECREED	4/1/1886	1.200 cfs	N/A	N/A	160.0	THOMAS FORK
11-7781	WR/DECREED	4/1/1886	1.470 cfs	N/A	N/A	80.0	THOMAS FORK

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>
11-124	NO	YES	YES	NO	NO	NO
11-7781	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>
11-124	11-124	1.200 cfs	N/A	160.0	185.0	N/A	N/A	N/A	N/A	N/A
11-7781	11-7781	1.470 cfs	N/A	80.0	185.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.670 cfs	N/A	185.0	185.0		N/A	N/A	N/A	N/A

This water right(s) 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. Detailed Water Right Description(s) attached.

Dated this 21st day of December, 2022.



Regional Manager

SUPPORT DATA

Transfer No. 86671

IN FILE # 11-124

SCANNED
DEC 21 2022

WATER RIGHT NO. 11-124**As Modified by Transfer No. 86671**

In accordance with the approval of Transfer No. 86671, Water Right No. 11-124 is now described as follows:

Right Holder: MAHOGANY RIDGE DAIRY FARM LLC
799 THOMAS FORK LN
GENEVA, ID 83238-4100

Priority Date: 4/1/1886

Source: THOMAS FORK

Tributary: BEAR RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

1.200 cfs

1.200 cfs

LOCATION OF POINT(S) OF DIVERSION

THOMAS FORK

SWSW

Sec 26 Twp 12S Rge 46E BEAR LAKE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	46E	26											34.0						34.0
12S	46E	27																26.0	26.0
12S	46E	35					22.0	40.0	40.0	23.0									125.0
							L 1			L 2									

Right Acre Limit: 160.0

POU Total Acres: 185.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 160 acres within the authorized place of use in a single irrigation season.
2. Rights 11-124 and 11-7781 when combined shall not exceed the irrigation of 185 acres.
3. Use of water under this right may 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. 11F.
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 diversion(s).
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

Transfer No. 86671

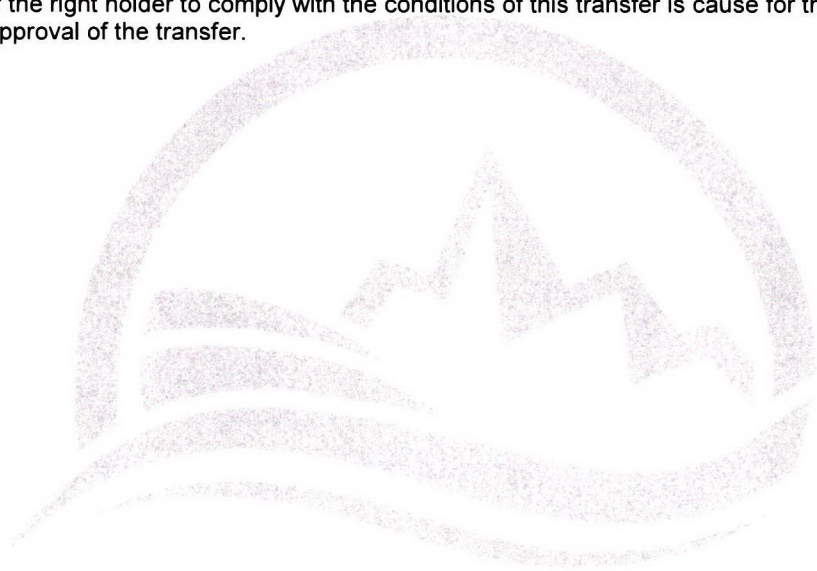
SCANNED

DEC 21 2017

WATER RIGHT NO. 11-124
As Modified by Transfer No. 86671

CONDITIONS OF APPROVAL

6. Use of this right is combined with water from Taylor Canal Company.
7. This right does not grant any right-of-way or easement across the land of another.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. 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. 11-7781**As Modified by Transfer No. 86671**

In accordance with the approval of Transfer No. 86671, Water Right No. 11-7781 is now described as follows:

Right Holder: MAHOGANY RIDGE DAIRY FARM LLC
799 THOMAS FORK LN
GENEVA, ID 83238-4100

Priority Date: 4/1/1886

Source: THOMAS FORK

Tributary: BEAR RIVER

BENEFICIAL USE

	From	To	Diversion Rate
IRRIGATION	04/15	to 10/31	1.470 cfs
STOCKWATER	04/15	to 10/31	0.020 cfs
			1.470 cfs

LOCATION OF POINT(S) OF DIVERSION

THOMAS FORK SWSW Sec 26 Twp 12S Rge 46E BEAR LAKE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	46E	26											34.0						34.0
12S	46E	27																26.0	26.0
12S	46E	35					22.0	40.0	40.0	23.0									125.0
							L 1			L 2									

Right Acre Limit: 80.0

POU Total Acres: 185.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	46E	26											X						
12S	46E	27																X	
12S	46E	35					X	X	X	X									
							L 1			L 2									

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 80 acres within the authorized place of use in a single irrigation season.
2. Rights 11-124 and 11-7781 when combined shall not exceed the irrigation of 185 acres.

Transfer No. 86671

SCANNED

DEC 21 2022

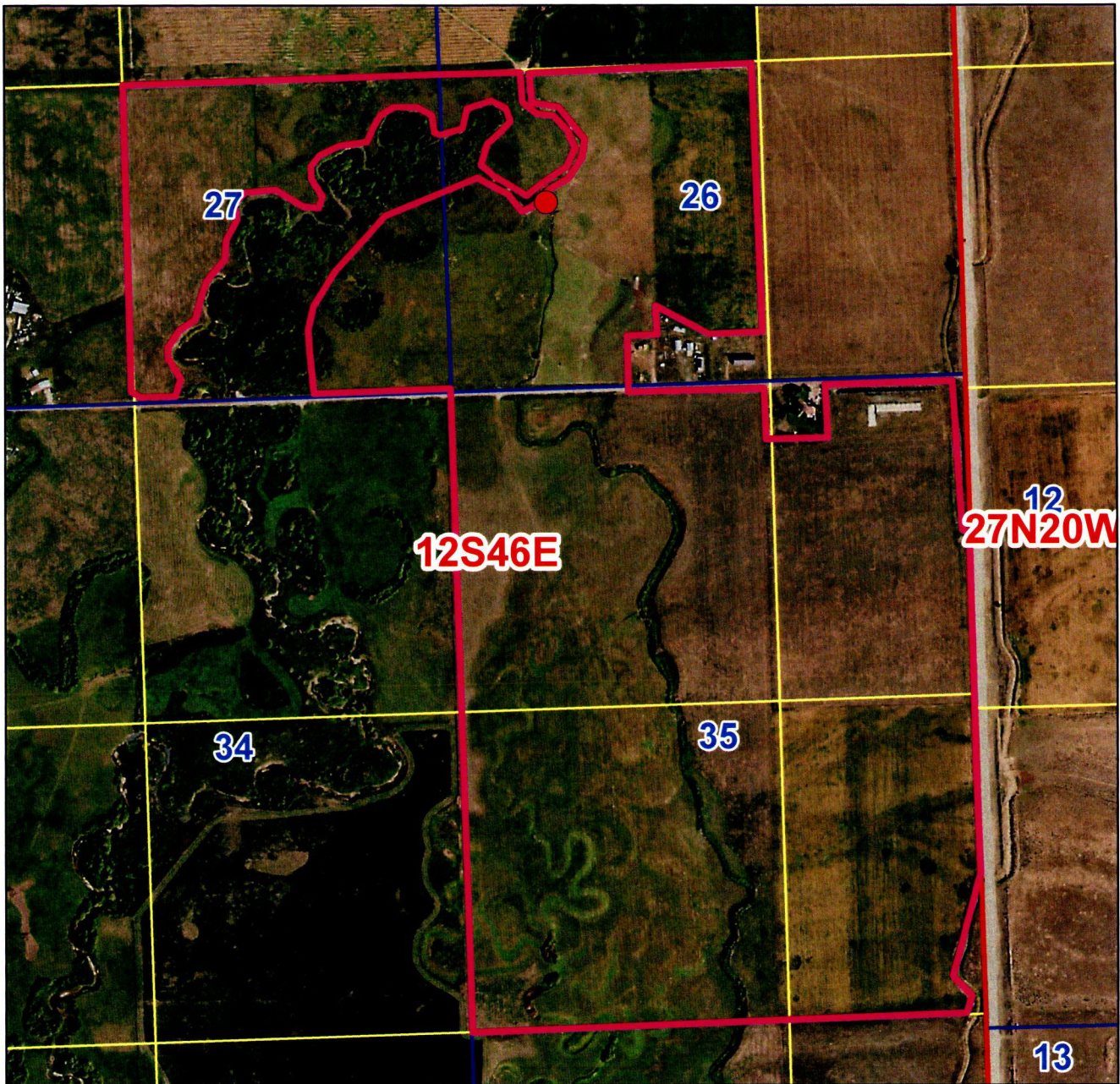
WATER RIGHT NO. 11-7781
As Modified by Transfer No. 86671

CONDITIONS OF APPROVAL

3. Use of water under this right may 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. 11F.
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 diversion(s).
5. Stockwater use is for 125 range cattle and 25 dairy cattle.
6. Use of this right is combined with water from Taylor Canal Company.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Attachment to Transfer Approval 86671

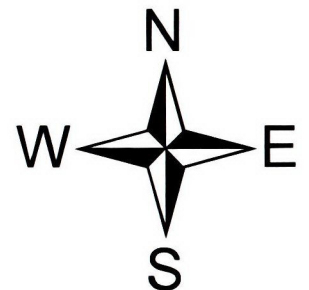
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POD
- WR POU
- Township/Range
- Sections
- QQ

0 250 500 1,000 Feet



SCANNED
Date: 12/21/2022
DEC 21 2022



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

December 21, 2022

MAHOGANY RIDGE DAIRY FARM LLC
799 THOMAS FORK LN
GENEVA ID 83238-4100

Re: Transfer No: 86671
Water Right No(s): 11-124, 11-7781

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 home page 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.

SCANNED
DEC 21 2022

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) 525-7161.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH', is positioned above the printed name.

Christina Henman
Administrative Assistant

Enclosure
CC:

SCANNED
DEC 21 2022

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 86671

Water Right No(s): 11-124, 11-7781

**MAHOGANY RIDGE DAIRY FARM LLC
799 THOMAS FORK LN
GENEVA ID 83238-4100**



**Christina Henman
Administrative Assistant**

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

Date: October 7, 2022
To: Transfer 86671
From: Thomas Lafortune
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the point of diversion and place of use for rights 11-124 and 11-7781. The proposed place of use is around the existing place of use for water right 11-124. The existing place of use for water right 11-7781 is located approximately two miles to the northeast of the proposed place of use. According to the applicant, water right 11-7781 has been used at the proposed place of use for decades. The watermaster was notified of the transfer and did not rebut the applicant's assertion of historical use.

Authority to File:

The applicant, Mahogany Ridge Dairy Farm LLC, is the current owner of the rights according to department records. The application was signed by Devin Boehme, who is listed as an agent of Mahogany Ridge on the Idaho Secretary of State website.

Water Right Validity:

Rights 11-124 and 11-7781 were decreed in 1902 in the case of Fawsett Brothers v Thomas Fork Irrigation & Canal Co. Aerial imagery shows consistent irrigation use at the proposed place of use since aerial imagery was available. Forfeiture is not an issue.

Injury to Other Water Rights:

This transfer updates the point of diversion to the Hall Ditch, which has been used as the point of diversion for many years. The rights are included in and administered by Water District 11F. The watermaster had no comment regarding this transfer.

Enlargement of Use:

There is no enlargement. The diversion rate will remain the same. The total irrigated acres will change from 160 acres under Right 11-124 and 80 acres under Right 11-7781, to a combined 185 acres under both rights. Eastern part of the proposed place of use is within the service area for Taylor Canal Company and receives water from the canal. The rights will include a condition noting the overlap.

Local Public Interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

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.

SCANNED
DEC 21 2022

SEP 12 2022

68597 276012
IDWR Eastern Region

IDWR Eastern Region
900 N Skyline Ste. A
Idaho Falls ID 83402

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
 }SS.

County of Bear Lake }

COLLINS CRAPO

of Idaho Falls, Bonneville County, Idaho being
first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.

2. That I am the Processing Clerk of the Montpelier News Examiner, a weekly Newspaper published in the City of Montpelier, in the County of Bear Lake, State of Idaho; that the said newspaper is in general circulation in the said County of Bear Lake, and in the vicinity of Montpelier, and has been uninterruptedly published said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.

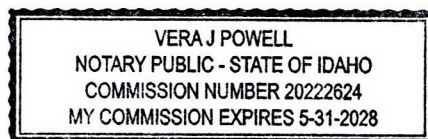
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement.

4. That said notice was published the following:
08/31/22, 09/07/22

STATE OF IDAHO)
County of BONNEVILLE)

On this date: 09/07/2022 before me a Notary Public, personally appeared COLLINS CRAPO known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Notary Public for Idaho
Residing at Bonneville County, Idaho
My Commission expires



**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 86671**

MAHOOGANY RIDGE DAIRY FARM LLC, C/O GARTH BOEHME, PO BOX 14, GENEVA, ID 83238 has filed Application No. 86671 for changes to the following water rights within BEAR LAKE County(s): Right No(s). 11-124, 11-7781; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion and place of use. The proposed point of diversion is in SWSW Sec 26 T12S R46E for 2.67 cfs from Thomas Fork. The proposed place of use is in SWSW Sec 26, SESE Sec 27, and Lot 1 (NENW), NWNW, SWNW, and Lot 2 (SENW) Sec 35, T12S R46E for irrigation of 185 acres and stockwater. For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 9/19/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN
Director

Published on 8/31/2022 and 9/7/2022 (NEX68597-276012)

SCANNED
SEP 27 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, August 24, 2022 4:30 PM
To: cindyt@uidaho.edu
Subject: Application for Transfer No. 86671
Attachments: tmp4400.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Please contact this office if you have any questions regarding the application.