

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86945**

This is to certify that: **WADE R FLEMING**
4319 N 55TH E
IDAHO FALLS, ID 83401

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>
23-12	WR/DECREED	5/20/1889	3.200 cfs	N/A	160.0	227.0	PALISADES CREEK

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
23-13A	WR/DECREED	6/30/1890	2.800 cfs	N/A	140.0	227.0	PALISADES CREEK
1-10600	WR/DECREED	6/1/1886	0.990 cfs	N/A		246.9	SNAKE RIVER
1-10602	WR/DECREED	6/1/1885	0.990 cfs	N/A		246.9	SNAKE RIVER

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>
23-12	YES	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>
23-12	23-11520	2.580 cfs	N/A	160.0	227.0	23-12	0.620 cfs	N/A	N/A	N/A
COMBINED TOTALS		2.580 cfs	N/A	160.0	227.0		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 27th day of January, 2023.



Regional Manager

SUPPORT DATA

Transfer No. 86945

IN FILE # 23-12

SCANNED
JAN 27 2023

WATER RIGHT NO. 23-12
As Modified by Transfer No. 86945

In accordance with the approval of Transfer No. 86945, Water Right No. 23-12 is now described as follows:

Right Holder: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Priority Date: 5/20/1889

Source: PALISADES CREEK

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/15	to 10/31	0.620 cfs
			0.620 cfs

LOCATION OF POINT(S) OF DIVERSION

PALISADES CREEK SWSWSE Sec 26 Twp 01N Rge 44E BONNEVILLE County

CONDITIONS OF APPROVAL

1. This right is used to offset conveyance losses and shall not be used for any other purpose.
2. 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. 1.
3. 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).
4. Water is delivered through Palisades Canal (13033010).
5. This right does not grant any right-of-way or easement across the land of another.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 86945

SCANNED
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WATER RIGHT NO. 23-11520**As Modified by Transfer No. 86945**

In accordance with the approval of Transfer No. 86945, Water Right No. 23-11520 is now described as follows:

Right Holder: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Priority Date: 5/20/1889

Source: PALISADES CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

2.580 cfs

2.580 cfs

LOCATION OF POINT(S) OF DIVERSION

PALISADES CREEK

L1 (NWNE)

Sec 28 Twp 01N Rge 44E BONNEVILLE 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	
01N	44E	21																40.0	40.0
01N	44E	22											40.0	33.0					73.0
01N	44E	27		0.1			33.0	37.0											70.1
01N	44E	28	37.0			6.9													43.9
			L 1			L 4													

Right Acre Limit: 160.0

POU Total Acres: 227.0

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 23-13A and 23-11520 when combined shall not exceed the irrigation of 227 acres.
3. Rights 1-10600, 1-10602, 23-13A, and 23-11520 when combined shall not exceed the irrigation of 246.9 acres.
4. 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.
5. 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. 1.

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WATER RIGHT NO. 23-11520
As Modified by Transfer No. 86945

CONDITIONS OF APPROVAL

6. 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).
7. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Palisades Creek in the SWSE, Section 26, T01N, R44E.
8. Diversion of water under this right is limited to the quantity of water available under this right at the original point of diversion on Palisades Creek or the quantity of water at the confluence of Palisades Creek and the Snake River, whichever is less.
9. Upon specific notice from the watermaster or the Department, the right holder shall install a measuring device on Palisades Creek near the confluence with the Snake River to measure the amount of water entering the Snake River from Palisades Creek.
10. Water is delivered through Fleming Pump (13033643).
11. Use of this right is combined with water from The Palisade Irrigation Co.
12. This right does not grant any right-of-way or easement across the land of another.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
15. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 23-13A**As Modified by Transfer No. 86945**

In accordance with the approval of Transfer No. 86945, Water Right No. 23-13A is now described as follows:

Right Holder: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Priority Date: 6/30/1890

Source: PALISADES CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

2.800 cfs

2.800 cfs

LOCATION OF POINT(S) OF DIVERSION

PALISADES CREEK

SWSWSE

Sec 26 Twp 01N Rge 44E BONNEVILLE 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	
01N	44E	21																40.0	40.0
01N	44E	22											40.0	33.0					73.0
01N	44E	27		0.1			33.0	37.0											70.1
01N	44E	28	37.0			6.9													43.9
			L 1			L 4													

Right Acre Limit: 140.0

POU Total Acres: 227.0

CONDITIONS OF APPROVAL

1. Rights 23-13A and 23-11520 when combined shall not exceed the irrigation of 227 acres.
2. WATER IS DELIVERED THROUGH THE PALISADES IRRIGATION COMPANY CANAL.
3. RIGHT NO. 23-00012 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
4. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 140.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
5. USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE PALISADES IRRIGATION COMPANY.

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WATER RIGHT NO. 23-13A
As Modified by Transfer No. 86945

CONDITIONS OF APPROVAL

6. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



WATER RIGHT NO. 1-10600**As Modified by Transfer No. 86945**

In accordance with the approval of Transfer No. 86945, Water Right No. 1-10600 is now described as follows:

Right Holder: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Priority Date: 6/1/1886

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

0.990 cfs

0.990 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER

L1 (NWNE)

Sec 28 Twp 01N Rge 44E BONNEVILLE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01N	44E	21																39.0	39.0
01N	44E	22											40.0	39.0					79.0
01N	44E	27					40.0	39.0											79.0
01N	44E	28	42.9			7.0													49.9
			L 1			L 4													

POU Total Acres: 246.9

CONDITIONS OF APPROVAL

1. Use of this right is combined with water from Palisades Irrigation Co.
2. Rights 1-10600, 1-10602, 23-13A, and 23-11520 when combined shall not exceed the irrigation of 246.9 acres.
3. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

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JAN 27 2023

WATER RIGHT NO. 1-10602**As Modified by Transfer No. 86945**

In accordance with the approval of Transfer No. 86945, Water Right No. 1-10602 is now described as follows:

Right Holder: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Priority Date: 6/1/1885

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

To

to 10/31

Diversion Rate

0.990 cfs

0.990 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L1 (NWNE) Sec 28 Twp 01N Rge 44E BONNEVILLE 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	
01N	44E	21																39.0	39.0
01N	44E	22											40.0	39.0					79.0
01N	44E	27					40.0	39.0											79.0
01N	44E	28	42.9			7.0													49.9
			L 1			L 4													

POU Total Acres: 246.9

CONDITIONS OF APPROVAL

1. Use of this right is combined with water from Palisades Irrigation Co.
2. Rights 1-10600, 1-10602, 23-13A, and 23-11520 when combined shall not exceed the irrigation of 246.9 acres.
3. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 86945

SCANNED
JAN 27 2023

Attachment to Transfer Approval 86945

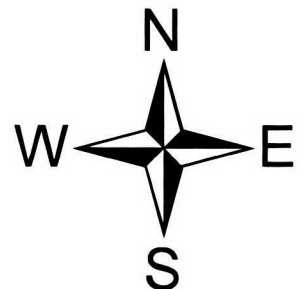
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 500 1,000 2,000 Feet



SCANNED Date 1/27/2023

JAN 27 2023

AUG 17 2022

42-222 POD - 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split
☐ Transfer is for changes pursuant to [Idaho Code § 42-221.O.8](#). Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Wade Fleming Phone 208-589-6004
 2. **MAILING ADDRESS** 4319 N 55E City Idaho Falls
 State Idaho Zip 83401 Email wrf.flem@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 23-12

- ☐ Attach a copy of the water right(s) as recorded, available at [idwr.idaho.gov](#), *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 3.2 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at [idwr.idaho.gov](#), *Water Rights, Water Right Transfers, Modeling Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
	1		NW	NE	28	01N	44E	Bonneville	Palisades Creek	W Fleming Pump

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Pump in River to buried mainline to pivots, handlines, and wheel lines.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights*, *Water Right Transfers*, *File a Transfer Application*, *Step 2C*.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Wade Fleming

Signature of applicant or authorized agent

Wade Fleming

Print name and title if applicable

8-17-2022

Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** – ☐ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers*, *Step 4* and in the [Application for Transfer Instructions](#).

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by _____ Date _____

Fee paid 740.00 Date 8-17-22 Receipted by mf. petter Receipt # E048423

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

8/8/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 23-12

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WADE R FLEMING 4319 N 55 E IDAHO FALLS, ID 83401 2085232009

Priority Date: 05/20/1889

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
PALISADES CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	3.2 CFS	
Total Diversion			3.2 CFS	

Location of Point(s) of Diversion:

PALISADES CREEK | SWSWSE | Sec. 26 | Township 01N | Range 44E | BONNEVILLE County

IRRIGATION Use:

Acre Limit: 160

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
01N	44E	21		SESE	40									
		22		SWSW	40		SESW	33						
		27		NWNE	0.1									
				NENW	33		NWNW	37						
		28	1	NENE	37	4	SENE	6.9						

SCANNED
SEP 28 2022

Total Acres: 227

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.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 23-00013A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 227.0 ACRES IN A SINGLE IRRIGATION SEASON.
3. K06 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 160.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. E17 USE OF THIS RIGHT IS COMBINED WITH WATER FROM THE PALISADES IRRIGATION COMPANY.
5. F01 WATER IS DELIVERED THROUGH THE PALISADES IRRIGATION COMPANY CANAL.
6. F05 RIGHT NO. 23-00013A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Licensed Date:

Decreed Date: 01/31/2005

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: TBD

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 227

Combined Volume Limit:

Combined Rate Limit:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

SCANNED

SEP 28 2022

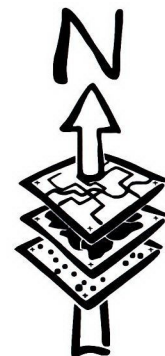
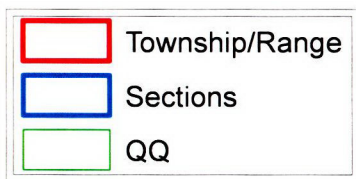


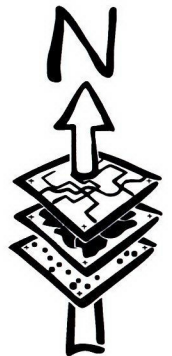
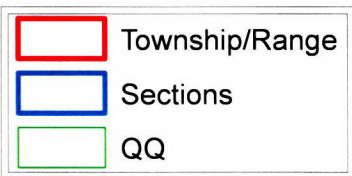
- Township/Range
- Sections
- QQ



SCANNED

SEP 28 2022





SCANNED
SEP 28 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

January 27, 2023

WADE R FLEMING
4319 N 55TH E
IDAHO FALLS ID 83401

Re: Transfer No: 86945
Water Right No(s): 1-10600, 1-10602, 23-12, 23-13A

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
JAN 27 2023

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
JAN 27 2023

CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2023 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.: 86945

Water Right No(s): 1-10600, 1-10602, 23-12, 23-13A

WADE R FLEMING

4319 N 55TH E

IDAHO FALLS ID 83401



Christina Henman
Administrative Assistant

SCANNED
JAN 27 2023

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: January 13, 2023
To: Transfer 86945
From: Michael Holliday
Re: Review & Evaluation of Sufficiency of Information

This transfer was filed to change the point of diversion of right 23-12 from the Palisades Canal to an existing pump location on the Snake River. Because right 23-12 must be split for approval, three other rights at the place of use will be brought into the transfer as associated rights in order to update combined limit conditions.

Authority to File:

The applicant is the current water right owner record, and Bonneville County parcel data shows the applicant as owner of the place of use and the proposed point of diversion.

Water Right Validity:

Water right 23-12 was decreed in the SRBA in 2005. Review of aerial imagery shows regular irrigation of most of the place of use, and the right is regularly delivered by Water District 1. Forfeiture is not an issue.

Injury to Other Water Rights:

The watermaster reviewed the application and did not oppose its approval but commented that the transfer may impact remaining water rights in the Palisades Canal. To prevent injury to other Palisades Canal water users, 0.62 cfs of right 23-12 will be left in the canal to offset conveyance losses. The 0.62 cfs rate was based on calculations found in recently approved transfer 84815, which involved a transfer of water out of the same ditch. The application was advertised, and no protests were filed.

Enlargement of Use:

The proposed changes will not result in enlargement because neither the diversion rate nor the number of acres authorized for irrigation will increase. This right is currently diverted from Palisades Creek via the Palisades Canal. In order to prevent enlargement, a condition will be added to the right limiting diversion from the proposed point of diversion to those times when the right can be diverted at the current point of diversion.

Local Public Interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

Effect on Economy of the Local Area:

No issues identified.

Effect on Agricultural Base of the Local Area:

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 this application.

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JAN 27 2023

Narrative to Support Transfer of 23-11H and 23-11J*Brigham Cook*

Applicant proposes to transfer water rights 23-11H and 23-11J to an existing point of diversion downstream on the Snake River. Copies of contracts between the Water Right Holders, Rocky Mountain Water Exchange LLC (Broker) and Brigham Cook (Buyer), are attached to this application as Attachment #3.

Water right 23-11H is diverted from the Lynn Dixon pump on the Snake River for irrigation of 37.7 acres. A portion of the acreage will remain behind to be used by the current water right holder. Only 26.4 acres are proposed to be transferred in this application. They have been protected in the Water Supply Bank and were recently released in December 2020.

Water right 23-11J was originally delivered to the Lynn Dixon pump on the Snake River or Palisades Canal on Palisades Creek for irrigation of 119.5 acres in Section 20, Township 1 North, Range 44 East. It was sold to Palisades Irrigation Company Inc. in 2019 and was transferred into the Palisades Canal system for distribution to new lands in the Palisades service area under Transfer 83027. The acres originally irrigated under 23-11J were retired from irrigation. The Lynn Dixon Pump on the Snake River was removed as a point of diversion. Palisades Irrigation Co. has deeded the water right back to Lynn Dixon, the original water right holder, in lieu of payment and has agreed to allow the water right to be transferred out of their system without protest. A copy of the deeds and agreement are included in Attachment #10.

Since water right 23-11J will be removed from the Palisades Canal, and there are other water right holders within the conveyance canal that could potentially be injured, this Transfer proposes to leave a portion of the water right behind in the conveyance canal as mitigation. The water right was decreed with 3.54 cfs for 119.5 acres (a rate of 0.03 cfs/acre) to allow for additional water required to compensate for the high conveyance losses within the conveyance canal. To determine the amount of mitigation water necessary to keep other water users in the conveyance canal whole, the Worstell Method¹ was employed to calculate the conveyance losses. This method uses the following equation:

$$S = 0.0667iW$$

Where S = seepage loss (cfs/mile)

i = seepage rate (ft/day)

W = top width of water surface (ft)

0.0667 = Conversion factor to convert units and a factor to estimate the wetted perimeter as a function of W

Palisades Canal diverts from Palisades Creek and after about ¼ mile, splits into the north ditch and the south ditch. 23-11J has historically been delivered down the south ditch, so this analysis only evaluates losses in this portion.

¹ As described on Pages 35-38 of *Guidelines for the Evaluation of Irrigation Diversion Rates*, prepared by Hubble Engineering, Inc. and Associated Earth Sciences, Inc. for the State of Idaho Department of Water Resources.

The NRCS Soil Report² identifies four slightly different soil types through which the Palisades Canal and then the South Ditch pass, including clay loam, sandy loam, and a very gravelly loam. Seepage losses were calculated within each of these different soil types at 2 ft deep using seepage rates obtained from the Hubble report.

Reach lengths were calculated using GIS and Reach Width was estimated by measuring canal and ditch width using Google Earth imagery. The reaches of the evaluated canal/ditch are shown in the figure below. Reach 4 ends with the last user on the ditch who holds private water rights delivered through Palisades Canal.

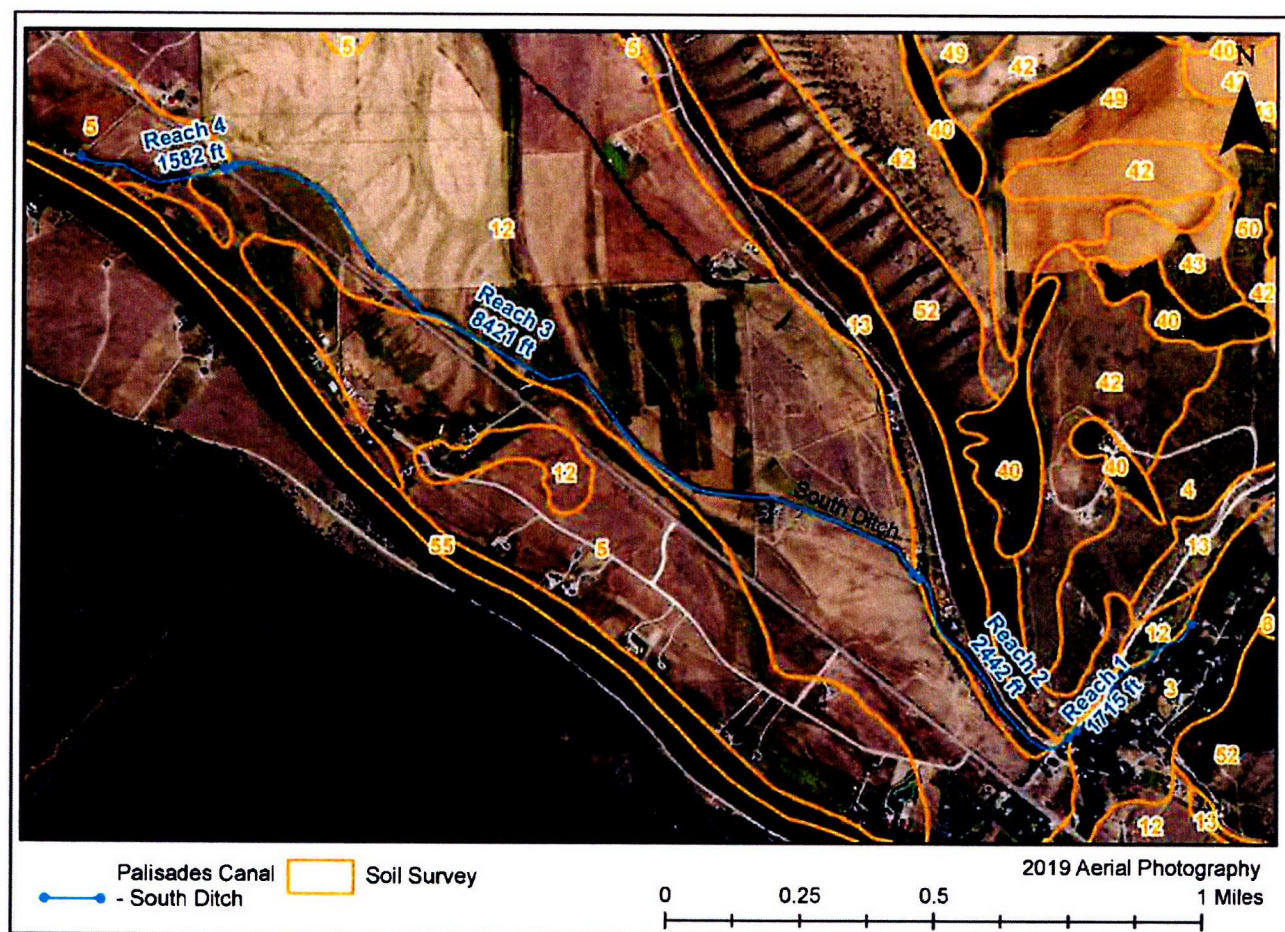


Figure 1. South Ditch of Palisades Canal from headgate to last user on ditch, overlapping soil survey map from NRCS.

² Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at the following link: <http://websoilsurvey.sc.egov.usda.gov/>. Accessed [2/8/2021].

Table 1 shows the values used to calculate the total conveyance losses in the conveyance canal and ditch, which were entered into the equation given in the Worstall Method. **Total conveyance losses are calculated to be 3.32 cfs.** Water Right 23-11J is one of several senior water rights delivered through Palisades Canal to users on the South Ditch. These water rights are privately owned and include up to 17 cfs combined, as shown in Table 2. Each of these users contributes a proportionate share to the total conveyance losses. The proportionate share of 23-11J is about 21% ($3.54 \text{ cfs} / 17 \text{ cfs} = 20.8\%$), or 0.69 cfs. **Therefore, it is proposed to leave 0.69 cfs behind to be delivered through the Palisades Canal for the purpose of mitigating conveyance losses to remaining users pertaining to the South Ditch.** The applicant will then receive the benefit of the remaining portion of the water right (2.85 cfs) at the new pump location downstream on the Snake River.

Table 1. Conveyance Loss Calculation of Palisades Canal and South Ditch

Reach	Soil Symbol	Soil Texture @ 2 ft	i - Loss per day (ft/day)	Reach Length (ft)	Reach Length (mi)	W - Reach Avg Width (ft)	S (cfs/mile)	Conveyance Losses (cfs)
1	3	Silty loam, silty clay loam	0.41	1,715	0.32	14	0.38	0.12
2	13	gravelly loam, very gravelly loam	2.2	2,442	0.46	18	2.64	1.22
3	12	gravelly loam, very gravelly loam	2.2	8,421	1.59	8	1.17	1.87
4	5	sandy loam	0.66	182	0.30	8	0.35	0.11
Total				14,160	2.68			3.32

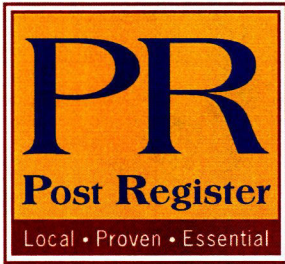
Table 2. Other Users on South Ditch of Palisades Canal

Water Right #	cfs	% Total
23-61*	2.34	14%
23-75	2.89	17%
23-75A	0.83	5%
23-12	3.2	19%
23-13A	2.8	16%
23-11307	0.2	1%
23-11308	0.55	3%
23-11309	0.48	3%
23-11D	0.17	1%
23-11J	3.54	21%
Total	17	100%

*Includes all of the splits, 23-11425--23-11434

$$3.32 \text{ cfs} \times 0.188 = 0.62 \text{ cfs}$$

0.62 cfs



PROOF OF PUBLICATION
Post Register

RECEIVED

OCT 17 2022

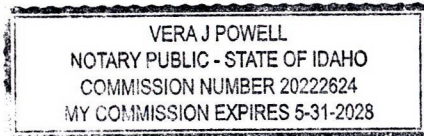
Department of Water Resources
Eastern Region

State of Idaho
County of Bonneville

I, ~~Dawn Giannini, or~~ Collins Crapo first being duly sworn, depose and say: That I am the ~~Classified Manager, or~~ Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Post Register, a newspaper of general circulation, published 4 days, Tuesday, Wednesday, Friday and Sunday, at Idaho Falls, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post Register for 2 day(s), first publication having been made on 10/05/2022 last publication having been made on 10/12/2022, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, on this 12th day of October, 2022.



Notary Public
My commission expires:

attached jurat

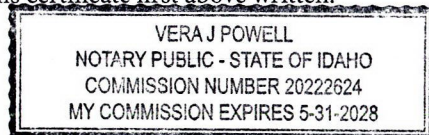
STATE OF IDAHO

ss.

COUNTY OF BONNEVILLE

On this 12th day of October, 2022 before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini, or~~ Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for APG of the Rockies
Residing: Idaho Falls, Idaho
Commission expires:

SCANNED
OCT 27 2022

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 86945**

WADE R FLEMING, 4319 N 55TH E, IDAHO FALLS, ID 83401 has filed Application No. 86945 for changes to the following water rights within BONNEVILLE County(s): Right No(s). 23-12; 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. The source is Palisades Creek, but the proposed point of diversion is on the Snake River in Lot 1 (NWNE) Sec 28 T01N R44E for 3.20 cfs. 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 10/24/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN
Director

Published: October 5, 12, 2022 (PR10591-288109)

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OCT 27 2022

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RE: Transfer No. 86945

Transfer Applicant's Name: WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as follows:
- c) I oppose approval of this application for the following reasons:
- d) X Additional comments: WATER RIGHT 23-12 REPRESENTS A LARGE PERCENTAGE OF THE WATER IN PALISADES CANAL WHEN PRIORITY DELIVERIES ARE CUT TO THE 5/20/1889 PRIORITY. IF THIS WATER RIGHT POINT-OF-DIVERSION IS TRANSFERRED FROM PALISADES CANAL TO THE SNAKE RIVER IT MAY MAKE IT MUCH MORE DIFFICULT FOR THE REMAINING WATER RIGHTS IN PALISADES CANAL TO BE CONVEYED FROM THE PALISADES CANAL HEADGATE TO THEIR PLACES-OF-USE.

Dated this 29TH day of SEPTEMBER, 2022

Tony Alenczak
Watermaster's Signature
WD01

SCANNED
OCT 27 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 28, 2022 3:53 PM
To: Olenichak, Tony
Subject: Application for Transfer No. 86945
Attachments: tmp8992.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://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. 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.



IDAHO DEPARTMENT
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

September 28, 2022

WADE R FLEMING
4319 N 55TH E
IDAHO FALLS, ID 83401

RE: Transfer No. 86945
Water Right No(s). 23-12

Dear Applicant:

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the POST REGISTER on 10/5/2022 and 10/12/2022. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

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

Sincerely,

Christina Henman
Administrative Assistant

SCANNED
SEP 28 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 28, 2022 3:29 PM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for Post Register
Attachments: 86945 Post Register.docx

LEGAL NOTICE DEPARTMENT
POST REGISTER
PO BOX 1800
IDAHO FALLS, ID 83403-1800

RE: Transfer No. 86945
Water Right No(s). 23-12

Dear Legal Notice Department:

Please publish the enclosed legal notice 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.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/24/2022. Your cooperation is appreciated.

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
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GARY SPACKMAN, Director

Published on 10/5/2022 and 10/12/2022

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SEP 28 2022