

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 87541**

This is to certify that: **BYU IDAHO**
210 W 4TH S
REXBURG, ID 83460-0006

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>
22-2303B	WR/DECREED	6/25/1953	2.280 cfs	399.0 af	114.0	150.4	GROUND WATER
22-2303C	WR/DECREED	6/25/1953	0.730 cfs	127.4 af	36.4	150.4	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>
22-2303B	NO	YES	NO	NO	NO	NO
22-2303C	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
22-2303B	22-2303B	2.280 cfs	399.0 af	114.0	150.4	N/A	N/A	N/A	N/A	N/A
22-2303C	22-2303C	0.730 cfs	127.4 af	36.4	150.4	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.010 cfs	526.4 af	150.4	150.4		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 23rd day of March, 2023.



Regional Manager

Transfer No. 87541

SUPPORT DATA
22-2303 B
IN FILE #

SCANNED
MAR 23 2023

WATER RIGHT NO. 22-2303B**As Modified by Transfer No. 87541**

In accordance with the approval of Transfer No. 87541, Water Right No. 22-2303B is now described as follows:

Right Holder: BYU IDAHO
210 W 4TH S
REXBURG, ID 83460-0006

Priority Date: 6/25/1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	2.280 cfs	399.0 af
			2.280 cfs	399.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 20 Twp 06N Rge 39E MADISON 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	
06N	39E	17												2.5			24.0	3.9	30.4
														L 6			L 6		
06N	39E	17												1.5					1.5
														L 17					
06N	39E	20	7.9	34.0	8.6	4.6	7.7							4.5	15.0	28.0	8.2		118.5
							L 1												

Right Acre Limit: 114.0

POU Total Acres: 150.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 114 acres within the authorized place of use in a single irrigation season.
2. Rights 22-2303B and 22-2303C when combined shall not exceed the irrigation of 150.4 acres.
3. 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. 100.
4. 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.

Transfer No. 87541

SCANNED
MAR 23 2023

WATER RIGHT NO. 22-2303B

As Modified by Transfer No. 87541

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 87541, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion 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.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
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. Place of use does not include federal public lands
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.
11. 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.

WATER RIGHT NO. 22-2303C**As Modified by Transfer No. 87541**

In accordance with the approval of Transfer No. 87541, Water Right No. 22-2303C is now described as follows:

Right Holder: BYU IDAHO
210 W 4TH S
REXBURG, ID 83460-0006

Priority Date: 6/25/1953

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	0.730 cfs	127.4 af
			0.730 cfs	127.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 20 Twp 06N Rge 39E MADISON 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	
06N	39E	17												2.5			24.0	3.9	30.4
														L 6			L 6		
06N	39E	17												1.5					1.5
														L 17					
06N	39E	20	7.9	34.0	8.6	4.6	7.7							4.5	15.0	28.0	8.2		118.5
							L 1												

Right Acre Limit: 36.4
POU Total Acres: 150.4

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 36.4 acres within the authorized place of use in a single irrigation season.
2. Rights 22-2303B and 22-2303C when combined shall not exceed the irrigation of 150.4 acres.
3. 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. 100.
4. 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.

Transfer No. 87541

SCANNED
MAR 23 2023

WATER RIGHT NO. 22-2303C

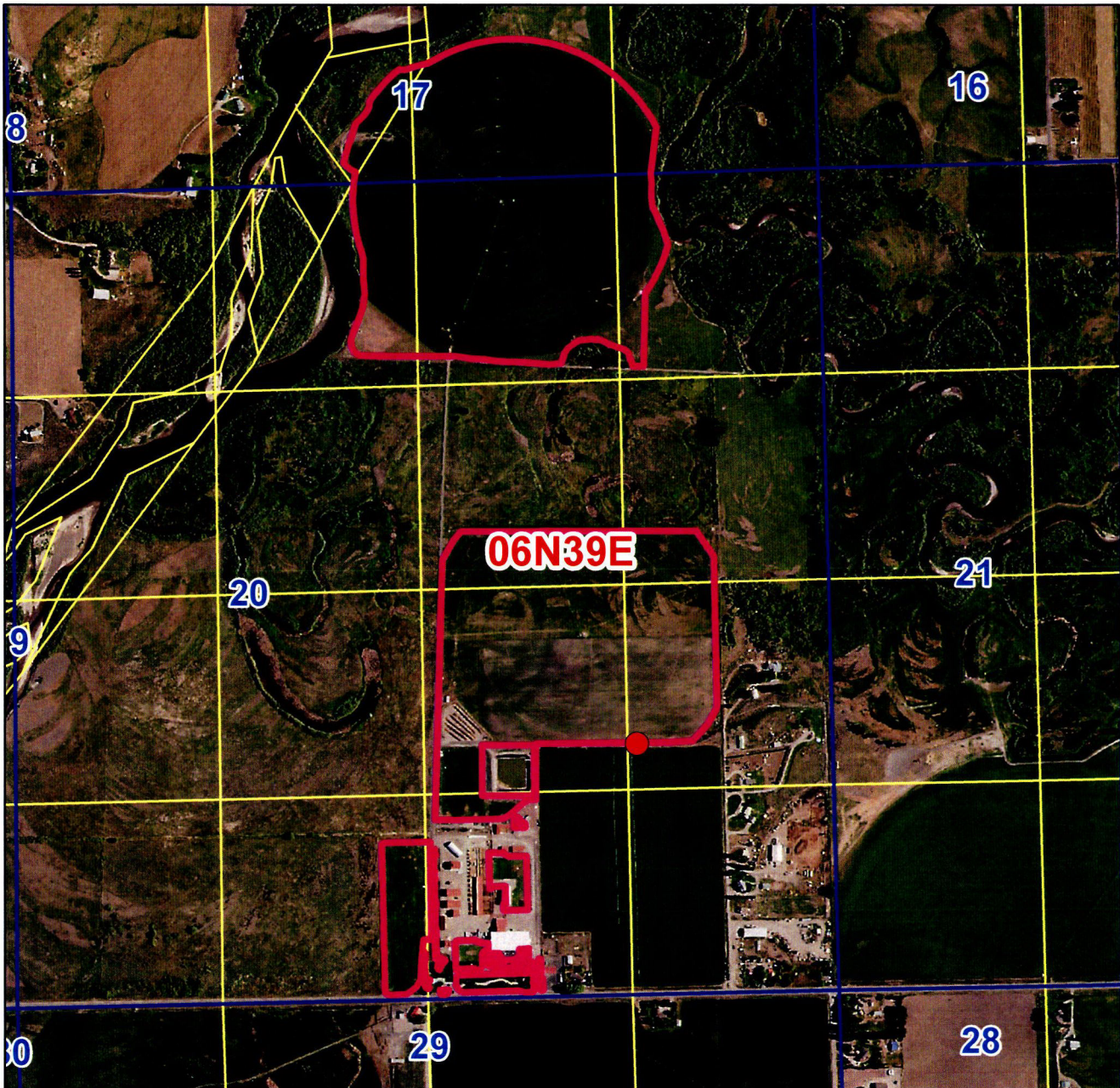
As Modified by Transfer No. 87541

CONDITIONS OF APPROVAL

5. Prior to the diversion and use of water under Transfer approval 87541, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion 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.
6. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
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. Place of use does not include federal public lands
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.
11. 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.

Attachment to Transfer Approval 87541

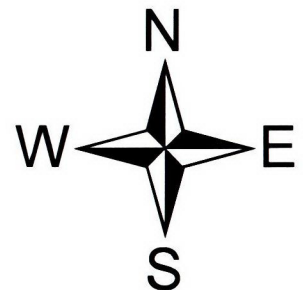
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 550 1,100 2,200 Feet



SCANNED Date: 3/23/2023
MAR 23 2023

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)** BYU-Idaho Phone 208-496-2312

2. **MAILING ADDRESS** 210 West 4th South City Rexburg State ID Zip 83460 Email purchase@byui.edu

RECEIVED

RECEIVED

FEB 21 2023

- ☒ 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.

Department of Water Resources
Application, Eastern Region

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) 22-2303B and 22-2303C

- ☐ 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 3.01 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*.

[illegible]

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:

One pump to a pressurized system. The system will have a flow meter and, if required, we will install lockable controlling works

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

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:

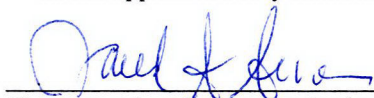
yes

- 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 $\frac{1}{4}$ $\frac{1}{4}$ 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.



Signature of applicant or authorized agent

JARED S. DOMMER, PURCHASING

Print name and title if applicable

2-21-23

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 2-21-23

Receipted by m. Pottis Receipt # E048912

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

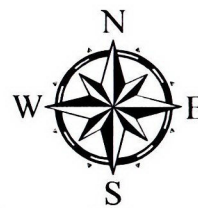
W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

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



Legend

-  Approximate_Location_of_Proposed_Well
 Water Right POD
 Water Right POU



8 7 5 4 1

FEB 22 2023

**IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report**

2/16/2023

Water Right 22-2303B

Owner Type **Name and Address**
Current Owner BYU IDAHO
525 S CENTER ST 1695
REXBURG, ID 83460
(208) 390-7000

Priority Date: 6/25/1953

Basis: Decreed

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	2.280 CFS	399.0 AF
	<u>Total Diversion</u>		2.280 CFS	399.0 AF

Source and Point(s) of Diversion:

GROUND WATER SWNESE Sec. 20, Twp 06N, Rge 39E, MADISON County

Place Of Use:

IRRIGATION within MADISON County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	39E	17												2.5 L6			24.0 L6	3.9	30.4
06N	39E	17												1.5 L17					1.5
06N	39E	20	7.9	34.0	8.6	4.6	7.7 L1							4.5	15.0	28.0	8.2		118.5

Right Acre Limit: 114.00
POU Total Acres: 150.4

Conditions of Approval:

1. X27 This right is limited to the irrigation of 114 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 22-2303B and 22-2303C when combined shall not exceed the irrigation of 150.4 acres.
3. R05 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. 100.
4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

2/16/2023

- watermaster suitable control of the diversion.
5. 214 Prior to the diversion and use of water under Transfer approval 79197, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion 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.
6. 213 Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. R63 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. U42 Place of use does not include federal public lands
9. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. T19 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.

Dates and Other Information:

Decreed Date: 12/5/2011

State or Federal: S

Water District Number: 100

Mitigation Plan: False

2/16/2023

22-2303C
FEB 22 2023

IDAHO DEPARTMENT OF WATER RESOURCES

2/16/2023

Proof Report

- watermaster suitable control of the diversion.
5. 214 Prior to the diversion and use of water under Transfer approval 79197, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion 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.
6. 213 Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
7. R63 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. U42 Place of use does not include federal public lands
9. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. T19 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.

Dates and Other Information:

Decreed Date: 3/12/2007

State or Federal: S

Water District Number: 100

Mitigation Plan: False



Governor Brad Little

Director Gary Spackman

March 23, 2023

BYU IDAHO
210 W 4TH S
REXBURG ID 83460-0006

Re: Transfer No: 87541
Water Right No(s): 22-2303B , 22-2303C

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
MAR 23 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 'CHENMAN', written over the word 'Sincerely,'.

Christina Henman
Administrative Assistant

Enclosure

CC:

SCANNED
MAR 23 2023

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 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.: 87541

Water Right No(s): 22-2303B , 22-2303C

**BYU IDAHO
210 W 4TH S
REXBURG ID 83460-0006**

**FREMONT-MADISON IRRIGATION DISTRICT
C/O JERRY RIGBY
PO BOX 15
ST ANTHONY ID 83445**



**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: March 22, 2023
To: Transfer 87541
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This application proposes to change the point of diversion for water rights 22-2303B and 22-2303C. Currently, these rights are pumped from a shared well on a neighboring property, owned by Jensen Farms Limited Partnership. Water right 22-10044, held by Jensen, is diverted from the shared well. The proposed point of diversion will be a new well on BYU-Idaho property. The proposed well is located approximately 500 feet west of the shared well.

Authority to File: BYU-Idaho is the current owner of record for water rights 22-2303B and 22-2303C. Combined place of use for the rights is owned by BYU-Idaho.

Water Right Validity: SRBA Court issued a partial decree for water right 22-2303C in 2007 and 22-2303B in 2011. Aerial imagery shows consistent irrigation of the entire place of use. Forfeiture is not an issue.

Injury to Other Water Rights: Proposed point of diversion is located only 500 feet west of the existing point of diversion. Both points are in the same ESPA model cell. ESPA Transfer Tool analysis not required. Application was advertised and protested by Fremont Madison Irrigation District. FMID was concerned about measurement and over pumping. FMID's protest was withdrawn without condition. Watermaster for Water District 100 was notified and does not oppose the application.

Enlargement of Use: No issues identified. Combined limit conditions will be carried forward.

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
MAR 23 2023

MAR 22 2023

Department of Water Resources
Eastern Region

In the Name of BYUI
Applicant

Represented by: Rigby Andrus & Rigby PLLC

☒ My withdrawal is not conditional.

☐ My withdrawal is conditioned on the following:

	Executive Director	3/22/2023
Signature of Protestant or Representative	Title	Date

SCANNED
MAR 23 2023

RECEIVED

Rev. 04/2022

MAR 16 2023

Filing Fee: \$25.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Department of Water Resources
Eastern Region
NOTICE OF PROTEST

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to **send a copy of the protest to the applicant.**

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☒ Transfer ☐ Exchange
No. 87541 in the name of BYU-I

2. Protestant's Name: Fremont-Madison Irrigation District

Address: PO BOX 15

Telephone: 208-624-3381

Email: aaron.fmid@myidahomail.com

3. Protestant's Representative: Jerry Rigby

Address: _____

Telephone: 208-356-3633

Email: jrigby@rex-law.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See Instructions for Filing a Notice of Protest for the relevant review criteria.

Concerned that adding a point of diversion to an existing water right could allow the water right holder to over divert. This could impact surface water flow for Fremont-Madison Irrigation District or its member irrigation companies.

Increase diversion could impact groundwater rights or the mitigation requirements for groundwater rights held by Fremont-Madison Irrigation District

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

5. ☒ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been properly notified, the Department may issue a notice of proposed default against me in this matter for failure to appear. **I also verify that I have served a copy of this protest upon the applicant.**

Aaron Dalling
Protestant's or Representative's Signature

Aaron Dalling 3-13-23
Printed Name and Title (if applicable) Date

\$25.00 fee receipted by Cx th

FOR DEPARTMENT USE ONLY
Receipt # E048982

Date 3/16/23

MAR 23 2023

SCANNED
MAR 23 2023

Henman, Christina

From: Henman, Christina
Sent: Wednesday, February 22, 2023 1:48 PM
To: Jordan, Blake
Subject: Application for Transfer No. 87541
Attachments: tmpEB1A.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/WRAJSearch/WRADJSearch.aspx>. 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.



PROOF OF PUBLICATION
Standard Journal

RECEIVED

MAR 13 2023

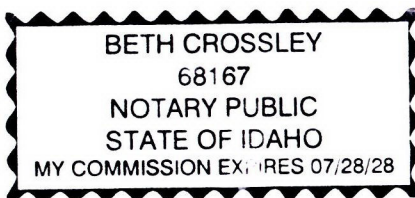
Department of Water Resources
Eastern Region

State of Idaho
County of Madison & Fremont

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 Standard Journal, a newspaper of general circulation, published 2 days, Tuesday and Friday at Rexburg, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Standard Journal for 2 day(s), first publication having been made on 03/03/2023 last publication having been made on 03/10/2023, 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 10th day of March, 2023



Notary Public
My commission expires:

_____ attached jurat _____

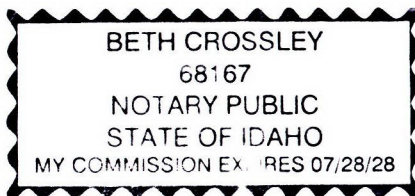
STATE OF IDAHO

ss.

COUNTY OF MADISON & FREMONT

On this 10th day of March, 2023 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
MAR 23 2023

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 87541**

BYU IDAHO, 210 W 4TH S, REXBURG, ID 83460-0006 has filed Application No. 87541 for changes to the following water rights within MADISON County(s): Right No(s). 22-2303B, 22-2303C; 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. Proposed point of diversion is in NESE Sec 20 T06N R39E for 3.01 cfs from ground water.

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 3/20/2023. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN
Director

Published: March 3, 10, 2023 (SJ9319-338309)

SCANNED
MAR 23 2023



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

February 22, 2023

BYU IDAHO
210 W 4TH S
REXBURG, ID 83460-0006

RE: Transfer No. 87541
Water Right No(s). 22-2303B, 22-2303C

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 REXBURG STANDARD JOURNAL on 3/3/2023 and 3/10/2023. 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
FEB 22 2023

Henman, Christina

From: Henman, Christina
Sent: Wednesday, February 22, 2023 12:28 PM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for Standard Journal
Attachments: 87541 Standard Journal.docx

LEGAL NOTICE DEPARTMENT
REXBURG STANDARD JOURNAL
PO BOX 10
REXBURG, ID 83440

RE: Transfer No. 87541
Water Right No(s). 22-2303B, 22-2303C

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 3/20/2023. 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
TRANSFER NO. 87541**

BYU IDAHO, 210 W 4TH S, REXBURG, ID 83460-0006 has filed Application No. 87541 for changes to the following water rights within MADISON County(s): Right No(s). 22-2303B, 22-2303C; 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. Proposed point of diversion is in NESE Sec 20 T06N R39E for 3.01 cfs from ground water.

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 3/20/2023. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 3/3/2023 and 3/10/2023

SCANNED
FEB 22 2023