

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86293**

This is to certify that: **NET PROPHET LLC**
146 E CHUBBUCK RD STE C
CHUBBUCK, ID 83202-5054

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>
29-2005	WR/DECREED	8/20/1903	2.400 cfs	N/A	N/A	97.5	SPIDER CREEK, SPRING

Purpose of Transfer (Changes Proposed)

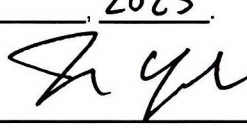
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
29-2005	YES	NO	YES	NO	NO	NO

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>
29-2005	29-14504	2.360 cfs	N/A	N/A	95.9	29-2005	0.040 cfs	N/A	N/A	1.6
COMBINED TOTALS		2.360 cfs	N/A	N/A	95.9		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 13th day of February, 2023.



Regional Manager

SUPPORT DATA

Transfer No. 86293

IN FILE # 29-2005

SCANNED

FEB 14 2023

WATER RIGHT NO. 29-2005
As Modified by Transfer No. 86293

In accordance with the approval of Transfer No. 86293, Water Right No. 29-2005 is now described as follows:

Right Holder: NET PROPHET LLC
 146 E CHUBBUCK RD STE C
 CHUBBUCK, ID 83202-5054

Priority Date: 8/20/1903

Source: SPRING
Source: SPIDER CREEK

Tributary: SINKS
Tributary: LOWER ROCK CREEK

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.040 cfs

0.040 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING
 SPIDER CREEK

SWSWSW
 SENENW

Sec 30 Twp 07S Rge 37E BANNOCK County
 Sec 31 Twp 07S Rge 37E BANNOCK 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	
07S	36E	25											1.6						1.6

POU Total Acres: 1.6

CONDITIONS OF APPROVAL

1. 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. 29D.
2. 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).
3. 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.
4. This right does not grant any right-of-way or easement across the land of another.
5. The right holder shall accomplish the change authorized by this transfer within one year(s) of the date of this approval.

Transfer No. 86293

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FEB 14 2023

WATER RIGHT NO. 29-2005
As Modified by Transfer No. 86293

CONDITIONS OF APPROVAL

6. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. 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.



Transfer No. 86293

SCANNED
FEB 14 2023

WATER RIGHT NO. 29-14504**As Modified by Transfer No. 86293**

In accordance with the approval of Transfer No. 86293, Water Right No. 29-14504 is now described as follows:

Right Holder: NET PROPHET LLC
146 E CHUBBUCK RD STE C
CHUBBUCK, ID 83202-5054

Priority Date: 8/20/1903

Source: SPRING
Source: SPIDER CREEK

Tributary: SINKS
Tributary: LOWER ROCK CREEK

BENEFICIAL USE

IRRIGATION
STOCKWATER

From

04/01
01/01

To

to 10/31
to 12/31

Diversion Rate

2.360 cfs
0.020 cfs
2.360 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING SWSWSW Sec 30 Twp 07S Rge 37E BANNOCK County
SPIDER CREEK SENENW Sec 31 Twp 07S Rge 37E BANNOCK 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	
07S	36E	26											36.0	37.0					73.0
07S	36E	35					12.0	10.9											22.9

POU Total Acres: 95.9

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	
07S	36E	25											X	X					0.0
07S	36E	35					X	X											0.0

CONDITIONS OF APPROVAL

1. 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. 29D.
2. 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).

Transfer No. 86293

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FEB 14 2023

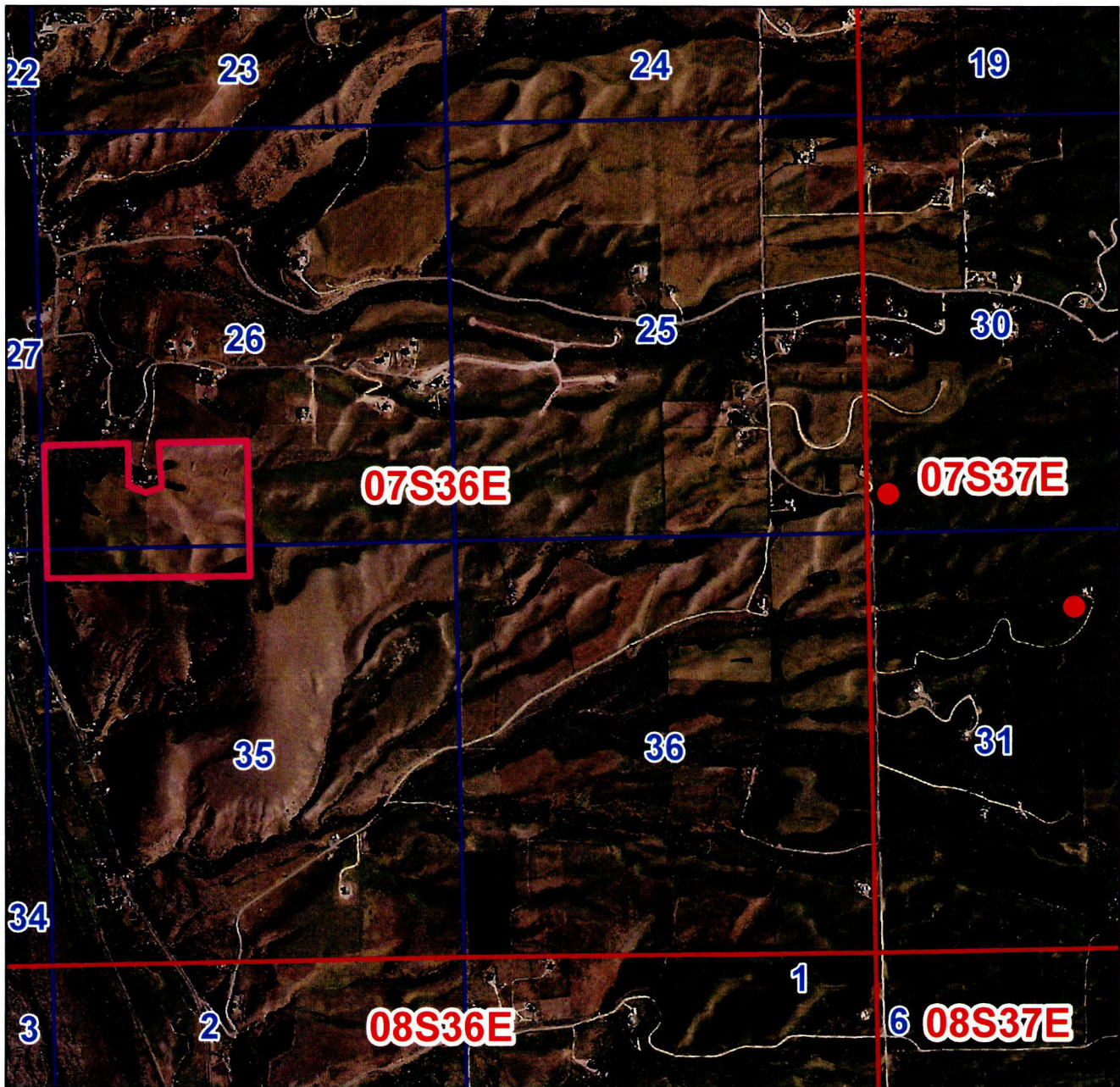
WATER RIGHT NO. 29-14504
As Modified by Transfer No. 86293

CONDITIONS OF APPROVAL

3. The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the SWSW of Section 25, T07S, R36E.
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. 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(s) 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 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 86293

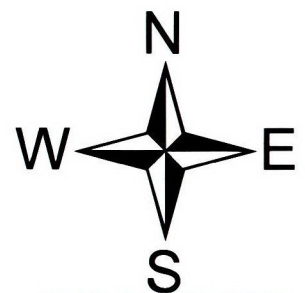
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 1,250 2,500 5,000 Feet



SCANNED

Date: 2/13/2023



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

February 13, 2023

NET PROPHET LLC
146 E CHUBBUCK RD STE C
CHUBBUCK ID 83202-5054

Re: Transfer No: 86293
Water Right No(s): 29-2005

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.

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FEB 14 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 'CHH', is written over the word 'Sincerely,'.

Christina Henman
Administrative Assistant

Enclosure

CC:

SCANNED

FEB 14 2023

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 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.: 86293
Water Right No(s): 29-2005

NET PROPHET LLC
146 E CHUBBUCK RD STE C
CHUBBUCK ID 83202-5054



Christina Henman
Administrative Assistant

SCANNED
FEB 14 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: September 15, 2022
To: Transfer 86293
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use for a 95.9-acre portion of water right 29-2005. Water right 29-2005 will be split as part of the transfer approval.

Authority to File:

The applicant is the current water right owner of record. Bannock County tax lot data shows the applicant as the owner of the proposed place of use and most the current place of use. After the transfer application was filed, the applicant has sold off two parcels on the current place of use, one to Equity Trust Company FBO Paul Brien IRA, and the second to Benjamin Swenson. The applicant provided documentation from Equity Trust Company FBO Paul Brien IRA stating that they give up interest in water right 29-2005. Additionally, the water rights were not withheld from the sale of land when Benjamin Swenson purchased his lot on the current place of use. The applicant was not able to contact Mr. Swenson. Therefore, the applicant has decided to split the right and leave the 1.6 acres on Mr. Swenson's property until a later date when they can contact Mr. Swenson and get proper documents from him. The applicant has authority to make the change for the 95.9 acres transferred.

Water Right Validity:

The right included in this transfer was decreed in the SRBA in 2004. This right was changed through Transfer 84993 in 2021. Satellite imagery shows consistent irrigation of existing place of use. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. Neither the points of diversion nor the quantity authorized to be diverted will change as a result of the transfer. The water master was notified of the application and did not provide a comment. Since it is clear that the proposed change will not adversely impact other water rights, this application will not require public notice.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor irrigated acreage will increase as a result of the transfer. There are no overlapping water rights on the proposed place of use.

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
FEB 14 2023

MEMORANDUM

Date: June 2, 2022
To: Transfer 86293
From: Jake Nebeker
Re: Legal Notice Not Required

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

SCANNED
FEB 14 2023