

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86944**

This is to certify that: PENNY JOHNSON AND
TRACY JOHNSON
699 W HAGLER RD
INKOM, ID 83245-1503

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>
29-8046	WR/LICENSE	4/24/1990	0.040 cfs	4.1 af	N/A	1.0	MC NABB CREEK

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>
29-8046	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
29-8046	29-8046	0.040 cfs	4.1 af	N/A	1.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 cfs	4.1 af	N/A	1.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 21st day of December, 2022.



Regional Manager

Transfer No. 86944

SCANNED
DEC 21 2022

WATER RIGHT NO. 29-8046**As Modified by Transfer No. 86944**

In accordance with the approval of Transfer No. 86944, Water Right No. 29-8046 is now described as follows:

Right Holder: TRACY JOHNSON AND
PENNY JOHNSON
699 W HAGLER RD
INKOM, ID 83245-1503

Priority Date: 4/24/1990

Source: MC NABB CREEK

Tributary: NORTH FORK RAPID CREEK

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	4/01	to 10/31	0.020 cfs	4.0 af
STOCKWATER	1/01	to 12/31	0.020 cfs	0.1 af
			0.040 cfs	4.1 af

LOCATION OF POINT(S) OF DIVERSION

MC NABB CREEK SESW Sec 27 Twp 06S Rge 36E 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	
06S	36E	27											0.1	0.9					1.0

POU Total Acres: 1.0

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	36E	27												X					

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
2. 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. 29D.
3. 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. 86944

SCANNED
DEC 21 2022

WATER RIGHT NO. 29-8046
As Modified by Transfer No. 86944

CONDITIONS OF APPROVAL

4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.



Attachment to Transfer Approval 86944

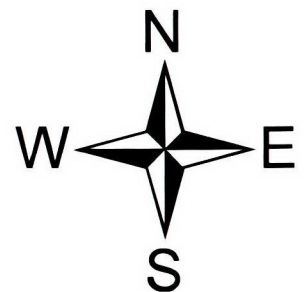
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 50 100 200 Feet



SCANNED
Date: 12/21/2022
DEC 21 2022

JUL 13 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern RegionAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Tracy and Penny Johnson Phone 208-406-1907
 Mailing address 699 W Hagler Rd., Inkom, ID 83245 Email pastor@rccid.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

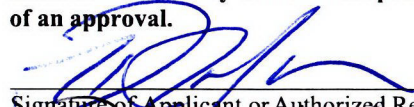
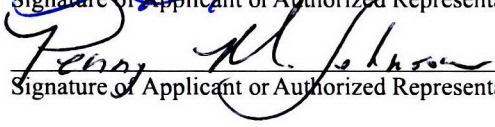
Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative _____ Phone _____
 Mailing address _____ Email _____

- ☐ Send all correspondence for this application to the representative and not to the applicant.
OR
☐ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

	<u>Tracy Johnson</u>	<u>7/13/2022</u>
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date
	<u>Penny Johnson</u>	<u>7/13/2022</u>
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other Ownership change
2. Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.
- Moving water right 29-8046 to adjacent parcel.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☒ ☐	29-8046	0.02 cfs	Irrigation	4/1 to 10/31	McNabb Cr/N.F. Rapid Cr
☐ ☐		0.02 cfs	Stockwater	1/1 to 10/31	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.04 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.04 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	SW	27	6S	36E	Bannock	McNabb Creek	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6S	36E	27											0.1	0.9					1
													\$						
Total Acres (for irrigation use)																			1

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. 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:

Gas powered pump in creek to hoses for irrigation and stockwater. Could lock diversion works if needed.

- 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. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Will be dry.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

None

- g. 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 leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/13/2022

Water Right 29-8046

Owner Type

Current Owner
Current Owner

Name

CALYNN COMBS
PATRICK COMBS

Priority Date: 4/24/1990

Basis: License

Status: Active

Source

MC NABB CREEK

Tributary

NORTH FORK RAPID CREEK

Beneficial Use

IRRIGATION
STOCKWATER

From

4/01

To

10/31

Diversion Rate

0.020 CFS

Volume

4.0 AF

1/01

12/31

0.020 CFS

0.1 AF

Total Diversion

0.040 CFS

4.1 AF

Source and Point(s) of Diversion:

MC NABB CREEK

SWSW

Sec. 27, Twp 06S, Rge 36E, BANNOCK County

Place Of Use:

IRRIGATION within BANNOCK County

T06S R36E S27

SWSW

1.0

POU Total Acres

1.0

STOCKWATER Same as IRRIGATION

Conditions of Approval:

1. 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
2. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
3. R31 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
4. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.

Dates and Other Information:

Licensed Date: 1/10/1997

Owner Name Connector: AND

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. CHANGES IN NATURE OF USE (WaterBalance)

- ### C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

Transfer contains _____ pages and _____ attachments.

Received by m. Petter Date _____ Preliminary check by _____ Date _____

Fee paid 225.00 Date 7-13-22 Received by M. Pottin Receipt # E048310

Add'l fee paid	Date	Received by	Receipt #
----------------	------	-------------	-----------

Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

Johnson Transfer



Legend

- Proposed POD
- Proposed POU
- Parcels
- Township/Range
- Sections
- QQ

0 205 410 820 Feet



SCANNED
OCT 05 2022

86944

22102566

PERSONAL REPRESENTATIVE'S DEED

THIS DEED, made by Calynn Combs ("Grantor") as the Personal Representative of the Estate of Patrick Michael Combs, and does hereby convey, release, remise, and forever quitclaim unto Calynn Combs ("Grantee") a widow, as her sole and separate property, whose current address is 815 West Hagler, Inkom, Bannock County, Idaho.

WHEREAS, Grantor is the qualified personal representative of said estate filed in Bannock County, Idaho, as Case No. CV03-20-02046.

THEREFORE, for valuable consideration received, Grantor quitclaims, transfers, and conveys to Grantee the following described real property in Bannock County, Idaho:

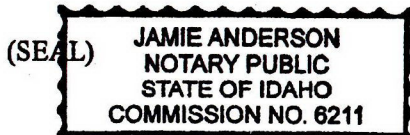
COMMENCING at the South $\frac{1}{4}$ corner of Section 27 Township 6 South, Range 36 East, Boise Meridian, Bannock County, Idaho; thence North $0^{\circ}01'$ West along the meridional center line of said Section 27, a distance of 385.3 feet; thence South $86^{\circ}00'$ West 1486.0 feet to the True Point of Beginning; thence North $21^{\circ}33'$ West 389.4 feet; thence North $65^{\circ}36'$ West 316.9 feet, more or less, to the Southerly right of way of Hagler Road; thence North $61^{\circ}10'$ East along the Southerly right of way 575.9 feet; thence South $9^{\circ}30'$ East 767.4 feet; thence South $86^{\circ}00'$ West 200 feet, more or less, to the True Point of Beginning,

with all appurtenances.

EXECUTED this 2 day of February, 2021.

Calynn Combs
CALYNN COMBS
Personal Representative for the
Estate of Patrick Michael Combs

SUBSCRIBED AND SWORN to before me this 2nd day of February, 2021.



Jamie Anderson
NOTARY PUBLIC FOR: *Idaho*
Residing at: *Pocatello*
My commission expires: *9/2023*

OFFICIAL RECORD BK#
BANNOCK COUNTY IDAHO

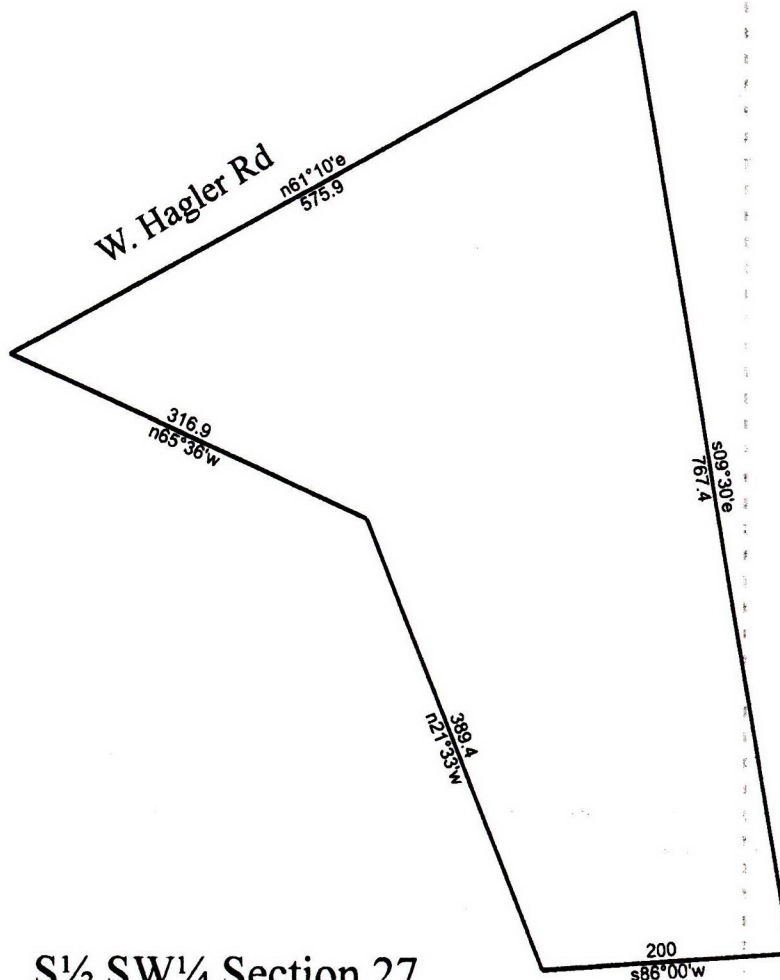
22102566

Cooper & Larson

RECORDED AT REQUEST
FEB 15 2021

SCANNED
OCT 05 2022

86944



S $\frac{1}{2}$ SW $\frac{1}{4}$ Section 27
Township 6 South
Range 36 EBM

815 W. Hagler Rd.

1/26/2022

Scale: 1 inch= 150 feet

File: 1025506.ndp

Tract 1: 5.0002 Acres (217810 Sq. Feet), Closure: s86.1906w 0.02 ft. (1/107413), Perimeter=2250 ft.

01 /se,sw,27,6s,36e
02 /n0.01w 385.3
03 /s86.00w 1486.0
04 n21.33w 389.4
05 n65.36w 316.9
06 n61.10e 575.9
07 s09.30e 767.4

08 s86.00w 200

THIS SKETCH IS MADE SOLELY
FOR THE PURPOSE OF ASSISTING
IN LOCATING THE PREMISES
THE COMPANY ASSUMES NO
LIABILITY FOR ALLEGED LOSS OR
DAMAGE WHICH MAY RESULT
FROM RELIANCE ON THIS MAP

SCANNED

OCT 05 2022

86944

Change in Ownership

Water Right No. 29-8046 - Ownership to be changed from Calynn Combs to Tracy and Penny Johnson.

Grantor:

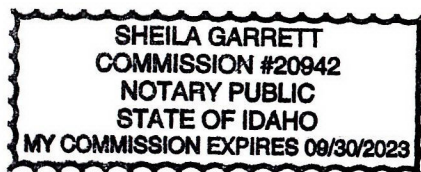
Calynn Combs
Calynn Combs

2/14/22
Date

STATE OF IDAHO)
: ss.

County of Bannock)

This record was acknowledged before me on this 14th day of February, 2022, by Calynn Combs.



Sheila Garrett
NOTARY PUBLIC FOR IDAHO
My Commission Expires: _____

State of Idaho
Residing: Inkom, Idaho
Comm. Expires: 09/30/2023

Instrument # 22202847
Bannock County, Pocatello, Idaho
02/16/2022 03:22:36 PM No. of Pages: 1
Recorded for: TRACY & PENNY JOHNSON
Jason C. Dixon Fee: \$10.00
Deputy: vhall

SCANNED
OCT 05 2022

86944

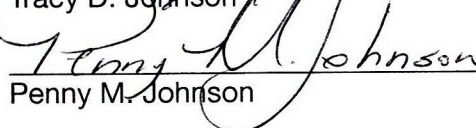
Change in Ownership

Water Right No. 29-8046 - Ownership to be changed from Calynn Combs to Tracy and Penny Johnson.

Grantee:


Tracy D. Johnson

2-14-22
Date


Penny M. Johnson

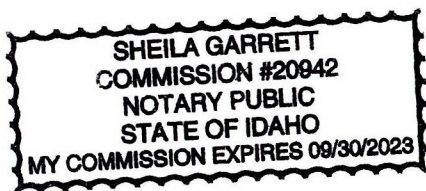
2-14-22
Date

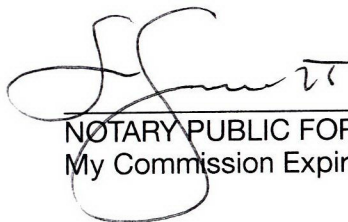
STATE OF IDAHO)

: ss.

County of Bannock)

This record was acknowledged before me on this 14th day of February, 2022, by Tracy D. Johnson and Penny M. Johnson.




NOTARY PUBLIC FOR IDAHO
My Commission Expires: _____

State of Idaho
Residing: Inkom, Idaho
Comm Expires: 09/30/2023

Instrument # 22202848
Bannock County, Pocatello, Idaho
02/16/2022 03:22:36 PM No. of Pages: 1
Recorded for: TRACY & PENNY JOHNSON
Jason C. Dixon Fee: \$10.00
Deputy: vhall

86944

SCANNED
OCT 05 2022

RECORDING REQUESTED BY
First American Title Company

AND WHEN RECORDED MAIL TO:
First American Title Company
223 North 15th Avenue
Pocatello, ID 83201

Instrument # 22203051
Bannock County, Pocatello, Idaho
02/18/2022 01:52:19 PM No. of Pages: 3
Recorded for: FIRST AMERICAN TITLE - POCATELLO
Jason C. Dixon Fee: \$15.00
Deputy kbovey
Electronically Recorded

Space Above This Line for Recorder's Use Only

WARRANTY DEED

File No.: **1025506-P (sg)**

Date: **January 28, 2022**

For Value Received, **Calynn Combs, an unmarried person**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **Sjon Benson and Kelly Benson, husband and wife**, hereinafter called the Grantee, whose current address is

6251 Dellwood Dr Murray UT 84123 the following described premises, situated in
Bannock County, Idaho, to-wit: 84123

Legal Description attached hereto as Exhibit A, and by this referenced incorporated herein.

No water rights with the sale of this property: SRB Ad

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Calynn Combs
Calynn Combs

STATE OF Idaho)
COUNTY OF Bannock)

On this 28 day of January, 2022, before me, a Notary Public in and for said State, personally appeared Calynn Combs, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.



Celeste Palmer
Notary Public for the State of Idaho
Residing at: Boise, ID
My Commission Expires: 3-19-22

EXHIBIT A

A TRACT OF LAND LOCATED IN THE SW¼ OF SECTION 27, TOWNSHIP 6 SOUTH, RANGE 36 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 27, TOWNSHIP 6 SOUTH, RANGE 36 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO; THENCE NORTH 0°01' WEST ALONG THE MERIDIONAL CENTER LINE OF SAID SECTION 27 A DISTANCE OF 385.3 FEET; THENCE SOUTH 86°00' WEST 1786.0 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 21°33' WEST 389.4 FEET; THENCE NORTH 65°36' WEST 316.9 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT OF WAY OF HAGLER ROAD; THENCE NORTH 61°10' EAST ALONG SAID SOUTHERLY RIGHT OF WAY 575.9 FEET; THENCE SOUTH 9°30' EAST 767.4 FEET; THENCE SOUTH 86°00' WEST 200 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

86944

SCANNED
OCT 05 2022



IDAHO DEPARTMENT OF
WATER RESOURCES

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

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

Governor Brad Little

Director Gary Spackman

December 21, 2022

PENNY JOHNSON
TRACY JOHNSON
699 W HAGLER RD
INKOM ID 83245-1503

Re: Transfer No: 86944
Water Right No(s): 29-8046

Transfer Approval Notice

Dear Water Right Holder:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

SCANNED
DEC 21 2022

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 525-7161.

Sincerely,

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

Christina Henman
Administrative Assistant

Enclosure
CC:

SCANNED
DEC 21 2022

CERTIFICATE OF SERVICE

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

Re: Transfer No.: 86944

Water Right No(s): 29-8046

**PENNY JOHNSON
TRACY JOHNSON
699 W HAGLER RD
INKOM ID 83245-1503**



**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: December 15, 2022
To: Transfer 86944
From: Michael Holliday
Re: Review & Evaluation of Sufficiency of Information

This transfer was filed to change the point of diversion and place of use of right 29-8046 to an adjacent parcel.

Authority to File:

IDWR records show Calynn and Patrick Combs as current owners of water right 29-8046. After Patrick died the water right was sold to the applicants, who are owners of the neighboring parcel to the east (the proposed place of use). Soon thereafter the current water right place of use was sold to the Bensons. The warranty deed specified that water rights were not included in the sale. IDWR provided direct notice of the transfer to the Bensons, but they did not respond. Bannock County parcel data confirms that the applicants own the proposed point of diversion and place of use.

Water Right Validity:

Right 29-8046 was licensed in 1997. Aerial imagery shows growing vegetation at the current place of use most years, even though the water right has a junior priority date that would not normally be deliverable for much of the year. There is no evidence of forfeiture.

Injury to Other Water Rights:

Other water rights should not be impacted by the proposed changes. The proposed point of diversion is less than 900 feet upstream from the current point of diversion, and there are no intervening points of diversion. The transfer application was advertised, and no protests were filed. The Water District 29D watermaster did not oppose approval of the transfer.

Enlargement of Use:

There are no enlargement concerns. Neither rate nor acreage will increase as a result of the transfer.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

SCANNED

DEC 21 2022



PROOF OF PUBLICATION
Idaho State Journal

RECEIVED

OCT 28 2022

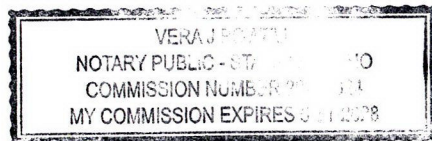
State of Idaho
County of Bannock

Department of Water Resources
Eastern Region

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 Idaho State Journal, a newspaper of general circulation, published 4 days, Tues-Wed-Friday and Sunday, at Pocatello, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Idaho State Journal for 2 day(s), first publication having been made on 10/12/2022 last publication having been made on 10/19/2022, 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 19th day of October, 2022



Notary Public
My commission expires:

attached jurat

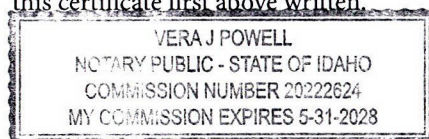
STATE OF IDAHO

ss.

COUNTY OF BANNOCK

On this 19th 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

NOV 02 2022

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 86944**

PENNY JOHNSON and TRACY JOHNSON, 699 W HAGLER RD, INKOM, ID 83245-1503 has filed Application No. 86944 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-8046; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion and place of use. The proposed point of diversion is in SESW Sec 27 T06S R36E for 0.04 cfs from McNabb Creek. The proposed place of use is in SWSW and SESW Sec 27 T06S R36E for 1 acre and stockwater. For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 10/31/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN
Director

Published: October 12, 19, 2022 (ISJ2497-290694)

SCANNED

NOV 02 2022

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

RECEIVED

OCT 18 2022

Department of Water Resources
Eastern Region

RE: Transfer No. 86944

Transfer Applicant's Name:

PENNY JOHNSON
TRACY JOHNSON
699 W HAGLER RD
INKOM, ID 83245-1503

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) Additional comments:

Dated this 18th day of October , 22

Kristin Evans
Watermaster's Signature
WD29D

SCANNED
NOV 02 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 5, 2022 4:40 PM
To: watermaster29d@gmail.com
Subject: Application for Transfer No. 86944
Attachments: tmp814A.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.



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

October 5, 2022

S JON & KELLY BENSON
6251 DELLRON DR
MURRAY, UT 84123

RE: Application for Transfer 86944

Hello,

The Idaho Department of Water Resources (IDWR) has identified you as an interested party regarding the above referenced water right application. You can find a complete copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

Public notice of this application will be published in the IDAHO STATE JOURNAL on 10/12/2022 and 10/19/2022 IDWR can finish reviewing an unprotested application as soon as the protest period has past. If you desire to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication. You must also send a copy of the protest to the applicant.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "CH", is written over the word "Sincerely,".

Christina Henman
Administrative Assistant

SCANNED
NOV 02 2022



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

October 5, 2022

PENNY JOHNSON
TRACY JOHNSON
699 W HAGLER RD
INKOM, ID 83245-1503

RE: Transfer No. 86944
Water Right No(s). 29-8046

Dear Applicants:

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 IDAHO STATE JOURNAL on 10/12/2022 and 10/19/2022. 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
OCT 05 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 5, 2022 3:29 PM
To: legalnotices@postregister.com
Subject: Legal Notice for Idaho State Journal
Attachments: 86944 Idaho State Journal.docx

LEGAL NOTICE DEPARTMENT
IDAHO STATE JOURNAL
PO BOX 431
POCATELLO, ID 83204-0431

RE: Transfer No. 86944
Water Right No(s). 29-8046

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 10/31/2022. 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
TRANSFER NO. 86944**

PENNY JOHNSON and TRACY JOHNSON, 699 W HAGLER RD, INKOM, ID 83245-1503 has filed Application No. 86944 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-8046; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion and place of use. The proposed point of diversion is in SESW Sec 27 T06S R36E for 0.04 cfs from McNabb Creek. The proposed place of use is in SWSW and SESW Sec 27 T06S R36E for 1 acre and stockwater.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 10/31/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/12/2022 and 10/19/2022

SCANNED
OCT 05 2022