STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 86891

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
29-11813	WR/DECREED	6/1/1885	1.340 cfs	N/A	N/A	67.0	RAPID CREEK

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
29-11812	WR/DECREED	4/1/1947	N/A	N/A		N/A	UNNAMED STREAM

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
29-11813	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
29-11813	29-11813	1.340 cfs	N/A	N/A	67.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**1.340 cfs**	**N/A**	**N/A**	**67.0**		**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 13th day of February, 2023.

Regional Manager

Transfer No. 86891

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-11813

As Modified by Transfer No. 86891

In accordance with the approval of Transfer No. 86891, Water Right No. 29-11813 is now described as follows:

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

Priority Date: 6/1/1885

Source: RAPID CREEK **Tributary:** PORTNEUF RIVER

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	1.340 cfs
				1.340 cfs

LOCATION OF POINT(S) OF DIVERSION

RAPID CREEK SESE Sec 20 Twp 07S Rge 36E BANNOCK County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	36E	19									15.0	4.0				3.0			22.0
												L 3							
07S	36E	20													10.0			1.2	11.2
07S	36E	21										27.0	6.8						33.8

POU Total Acres: 67.0

CONDITIONS OF APPROVAL

1. 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.
2. 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.
3. Water is delivered to this right from the authorized source by allowing water to flow from Rapid Creek into the Portneuf River.
4. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Rapid Creek in SWSWNW Sec 22 T07S R36E.

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-11813

As Modified by Transfer No. 86891

CONDITIONS OF APPROVAL

5. Diversion of water under this right is limited to the quantity of water available at the original point of diversion on Rapid Creek or the quantity of water at the confluence of Rapid Creek and the Portneuf River, whichever is less.

6. 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.

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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

9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-11812

As Modified by Transfer No. 86891

In accordance with the approval of Transfer No. 86891, Water Right No. 29-11812 is now described as follows:

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

Priority Date: 4/1/1947

Source: UNNAMED STREAM **Tributary:** SINKS

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM SESENW Sec 21 Twp 07S Rge 36E BANNOCK County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	36E	20																	
07S	36E	21																	

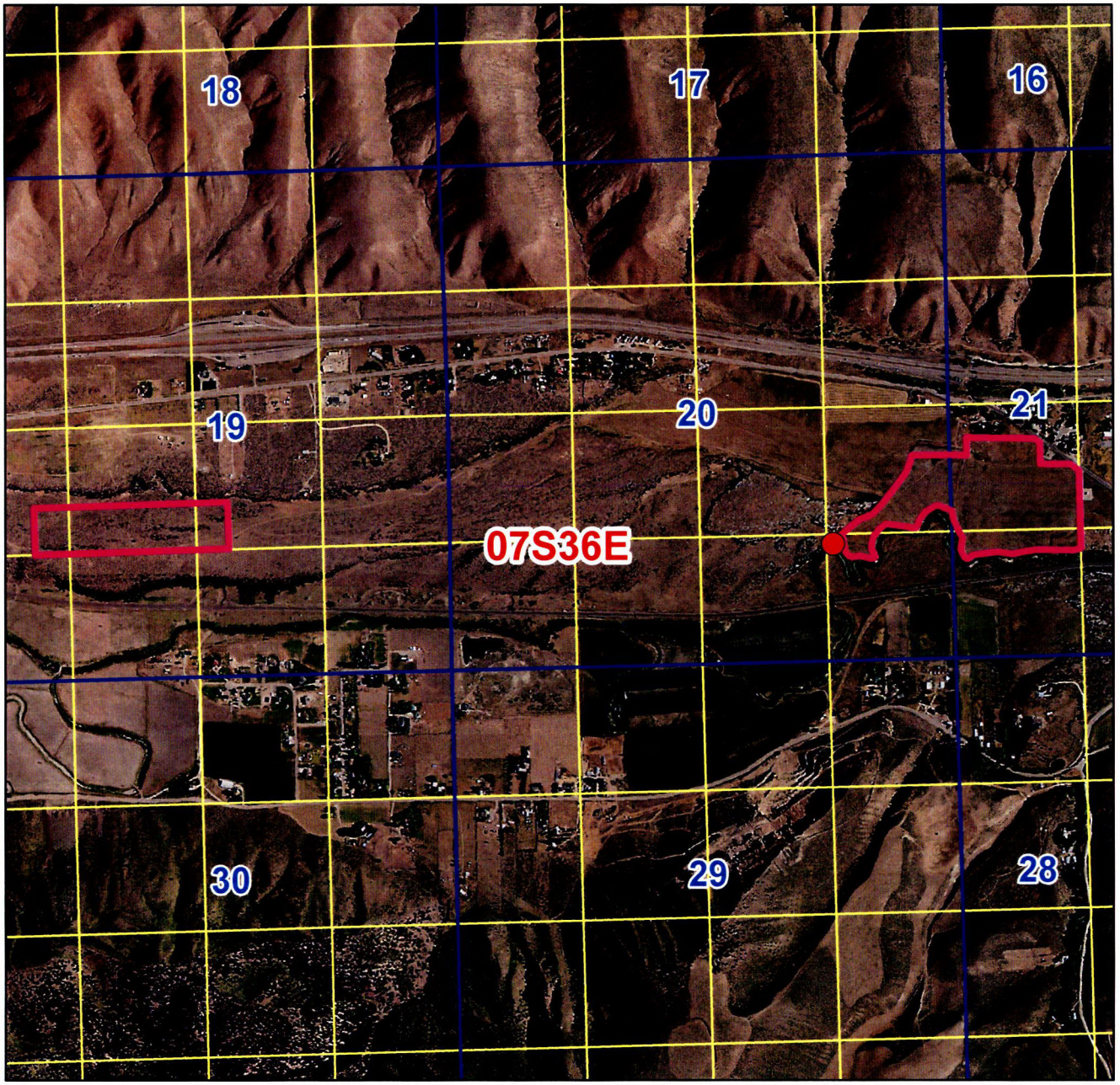
CONDITIONS OF APPROVAL

1. This right was eliminated through Transfer 86891 to prevent enlargement of water right 29-11813. Right 29-11812 is no longer a valid water right.

SCANNED
FEB 13 2023

Attachment to Transfer Approval 86891

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

0 750 1,500 3,000 Feet

N
W E
S

Date: 2/13/2023

SCANNED
FEB 13 2023

RECEIVED

SEP 20 2022

Department of Water Resources
Eastern Region

Rev. 07/18

4.4

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Net Prophet LLC Phone 208-705-4535

Mailing address 146 E Chubbuck Rd C Chubbuck, ID 83202 Email Emily@mypatriot.net

☐ 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.

Signature of Applicant or Authorized Representative	Jon Thuernagle Print Name and Title if applicable	9/20/2022 Date
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 _____

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 **Part1A.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 **Part1A.3.**

The purpose of this transfer is to reconfigure WR 29-11813, and to change the point of diversion to the Portneuf River. Water Right 29-11812 will need to be brought in as an associated right, and be reduced to avoid enlargement.

86891

86891

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SEP 28 2022

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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SEP 22 2022
Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

AMENDED

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. All	Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use		Source & Tributary
☑	☐	29-11813	1.34 cfs	Irrigation	04/01	to 10/31	Rapid Creek/Portneuf River
☐	☐					to	
☐	☐					to	
☐	☐					to	
☐	☐					to	
☐	☐					to	
☐	☐					to	
☐	☐					to	
☐	☐					to	

Total authorized under rights 1.34 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.34 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 #
Y			SE	SE	20	07S	36E	Bannock	Rapid 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	
07S	36E	20													10			1.2	11.2
07S	36E	21										27	6.8						33.8
07S	36E	19									15	4				3			22
												L3							

Total Acres (for irrigation use) 67

86891

SCANNED
SEP 28 2022

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SEP 22 2022

Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

AMENDED

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:

Pump in the river that is piped to the place of use on the applicants property.

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:

61.5 acres of the current POU will be dried up, since 5.5 acres of the current POU overlaps the proposed POU.

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:

POD and pipeline will be shared with WR 29-13392.

WR 29-11812 from unnamed stream to sinks, is combined with 29-11813. 29-11812 will be abandoned upon approval of this transfer.

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:

SCANNED

SEP 28 2022

86891

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b.**

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.

If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

B. CHANGES IN NATURE OF USE (WaterBalance)

☐ If you propose to change the nature of use or period of use of all or part of the rights(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

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:

FOR DEPARTMENT USE ONLY

E048014 Total $1770.00

Transfer contains____ pages and____ attachments. $380 ~~$200.00~~ for this app.

Received by____ Date____ Preliminary check by____ Date____

Fee paid $ 380.00 Date 4/13/2022 Receipted by JB Receipt # E048014

Add'l fee paid $ 200.00 Date 8/30/22 Receipted by CH Receipt # E048460

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

86891

SCANNED
SEP 28 2022

IDAHO DEPARTMENT OF WATER RESOURCES **9/21/2022**

Proof Report

Water Right 29-11813

Owner Type	**Name**
Current Owner	NET PROPHET LLC

Priority Date: 6/1/1885
Basis: Decreed
Status: Active

Source	**Tributary**
RAPID CREEK	PORTNEUF RIVER

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	04/01	10/31	1.480 CFS	
		Total Diversion	1.480 CFS	

Source and Point(s) of Diversion:

RAPID CREEK	SWSWNW	Sec. 22, Twp 07S, Rge 36E, BANNOCK County

Place Of Use:
IRRIGATION within BANNOCK County

T07S R36E S20	SWNE	11.0
T07S R36E S20	SENE	5.6
T07S R36E S20	SENW	4.0
T07S R36E S20	NESW	7.4
T07S R36E S20	NESE	18.0
T07S R36E S20	NWSE	17.0
T07S R36E S21	NWSW	11.0
	POU Total Acres	74.00

Conditions of Approval:

1.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2.	E51	USE OF THIS RIGHT WITH RIGHT NO. 29-11812 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.48 CFS.
3.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4.	E55	USE OF THIS RIGHT WITH RIGHT NO. 29-11812 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 74.0 ACRES IN A SINGLE IRRIGATION SEASON.

Dates and Other Information:

SCANNED
SEP 28 2022

86891

Decreed Date: 3/22/2004
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 29D
Mitigation Plan: False

Combined Use Limits:

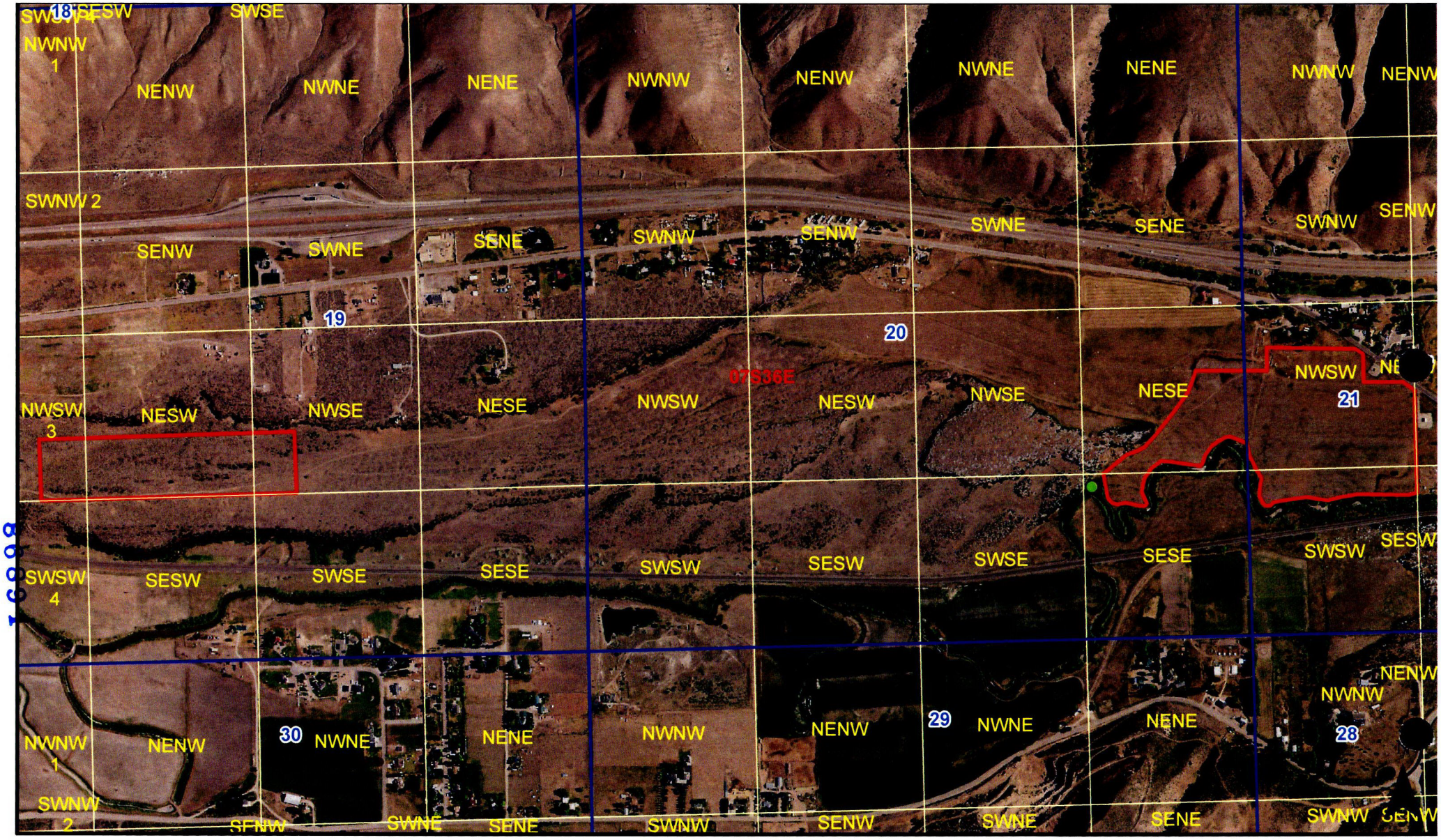
Rate	Volume	Acres	Water Rights
1.480		74.0	29-11813 ,29-11812

SubCase:
N/A

Water Supply Bank:

N/A

SCANNED
SEP 28 2022



SCANNED
SEP 28 2022

Legend

- 29-11813_Proposed POU
- POD
- Township/Range
- Sections
- QQ

0 0.075 0.15 0.3 0.45 0.6 Miles

IDAHO DEPARTMENT OF WATER RESOURCES

JNEBEKER_IDWR

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SUPERCEDED

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.

All	or Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☑	☐	29-11813	1.34 cfs	Irrigation	04/01 to 10/31	Portneuf River/Snake River
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	

Total authorized under rights 1.34 cfs and/or ______ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.23 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 #
Y			SE	SE	20	07S	36E	Bannock	Portneuf River	

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	
07S	36E	20													10			1.2	11.2
07S	36E	21										27	6.8						33.8
07S	36E	19									15	4/L3				3			22

Total Acres (for irrigation use) 67

SCANNED
SEP 28 2022

86891

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SUPERCEDED

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:
Pump in the river that is piped to the place of use on the applicants property.

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:
61.5 acres of the current POU will be dried up, since 5.5 acres of the current POU overlaps the proposed POU.

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:
POD and pipeline will be shared with WR 29-13392.
WR 29-11812 from unnamed stream to sinks, is combined with 29-11813. 29-11812 will need to be removed to avoid enlargement.

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:

86891

SCANNED
SEP 28 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 86889

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
29-11813	WR/DECREED	6/1/1885	1.480 cfs	N/A	N/A	74.0	RAPID CREEK

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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
29-11812	WR/DECREED	4/1/1947	0.460 cfs	N/A		67.0	UNNAMED STREAM

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
29-11813	YES	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
29-11813	29-14492	0.140 cfs	N/A	N/A	7.0	29-11813	1.340 cfs	N/A	N/A	67.0
COMBINED TOTALS		**0.140 cfs**	**N/A**	**N/A**	**7.0**		**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 13th day of February, 2023.

Regional Manager

Transfer No. 86889

SUPPORT DATA
IN FILE # 29-11813

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-11813

As Modified by Transfer No. 86889

In accordance with the approval of Transfer No. 86889, Water Right No. 29-11813 is now described as follows:

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

Priority Date: 6/1/1885

Source: RAPID CREEK **Tributary:** PORTNEUF RIVER

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	1.340 cfs
				1.340 cfs

LOCATION OF POINT(S) OF DIVERSION

RAPID CREEK SWSWNW Sec 22 Twp 07S Rge 36E BANNOCK County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	36E	20			11.0	5.6				4.0	0.4				18.0	17.0			56.0
07S	36E	21										11.0							11.0

POU Total Acres: 67.0

CONDITIONS OF APPROVAL

1. Rights 29-11812 and 29-11813 when combined shall not exceed a total diversion rate of 1.34 cfs, and the irrigation of 67 acres.
2. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
3. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Idaho Code § 42-1412(6).

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-14492

As Modified by Transfer No. 86889

In accordance with the approval of Transfer No. 86889, Water Right No. 29-14492 is now described as follows:

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

Priority Date: 6/1/1885

Source: RAPID CREEK **Tributary:** PORTNEUF RIVER

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	0.140 cfs
				0.140 cfs

LOCATION OF POINT(S) OF DIVERSION

RAPID CREEK SWSE Sec 19 Twp 07S Rge 36E BANNOCK County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	36E	19															7.0		7.0

POU Total Acres: 7.0

CONDITIONS OF APPROVAL

1. 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.
2. 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.
3. Water is delivered to this right from the authorized source by allowing water to flow from Rapid Creek into the Portneuf River.
4. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Rapid Creek in SWSWNW Sec 22 T07S R36E.
5. Diversion of water under this right is limited to the quantity of water available at the original point of diversion on Rapid Creek or the quantity of water at the confluence of Rapid Creek and the Portneuf River, whichever is less.

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-14492

As Modified by Transfer No. 86889

CONDITIONS OF APPROVAL

6. 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.

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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

9. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

SCANNED
FEB 13 2023

WATER RIGHT NO. 29-11812

As Modified by Transfer No. 86889

In accordance with the approval of Transfer No. 86889, Water Right No. 29-11812 is now described as follows:

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

Priority Date: 4/1/1947

Source: UNNAMED STREAM **Tributary:** SINKS

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	0.460 cfs
				0.460 cfs

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM SESENW Sec 21 Twp 07S Rge 36E BANNOCK County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S	36E	20			11.0	5.6				4.0	0.4				18.0	17.0			56.0
07S	36E	21										11.0							11.0

POU Total Acres: 67.0

CONDITIONS OF APPROVAL

1. Rights 29-11812 and 29-11813 when combined shall not exceed a total diversion rate of1.34 cfs, and the irrigation of 67 acres.
2. This right was reduced by 0.14 cfs and 7 acres through Transfer 86889 to prevent enlargement of water rights 29-11812 and 29-14492.
3. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Transfer No. 86889

SCANNED
FEB 13 2023

Attachment to Transfer Approval 86889

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

0 125 250 500 Feet

N
W E
S

Date: 2/13/2023

SCANNED
FEB 13 2023

RECEIVED

AUG 24 2022

Department of Water Resources
Eastern Region

Rev 07/18

4.1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Net Prophet LLC Phone 208-705-4535

Mailing address 146 E Chubbuck Rd Suit C Chubbuck, ID 83202 Email Emily@mypatriot.net

☐ 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.

Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date
	Jon Thornagle	8/23/2022
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 _____

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 **Part1A.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 **Part1A.3**.

Proposing to split 7 acres of my current pou and move it to ~~John Thornagals~~ Jon Thornagle's property. This also proposes to change the pod for the part that is moving to the Portneuf River. 7 acres of the current pou will be dried up. Water right 29-11812 will need to be brought in as an associated right, and be reduced to avoid enlargement.

86889

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86889

SEP 28 2022

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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SEP 22 2022
Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

AMENDED

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. All or Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☐ ☑	29-11813	0.14 cfs	Irrigation	04/01 to 10/31	Rapid Creek/Portneuf River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.14 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.14 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 #
Y			SW	SE	19	07S	36E	Bannock	Rapid 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	
07S	36E	19															7		7
Total Acres (for irrigation use)																			7

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SEP 28 2022

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:
Pump in the river to sprinkler system.

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:
7 acres of the original place of use will be dried up.

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:
WR 29-11812 from unnamed stream to sinks, is combined with 29-11813. A proportianate amount of 29-11812 will need to be reduced to avoid enlargement.

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:

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SEP 28 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ idwr.idaho.gov, Water Right Transfers, Step 1.
Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ idwr.idaho.gov, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: 29-11813

1. amount 0.14 (cfs/ac-ft) for Irrigation purposes from 04/01 to 10/31
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______
   amount ______ (cfs/ac-ft) for ______ purposes from ______ to ______

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

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	
07S	36E	20									7								7

Total Acres (for irrigation use) 7

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SEP 28 2022

Proof Report

Water Right 29-11813

Owner Type	**Name**
Current Owner	NET PROPHET LLC

Priority Date: 6/1/1885
Basis: Decreed
Status: Active

Source	**Tributary**
RAPID CREEK	PORTNEUF RIVER

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	04/01	10/31	1.480 CFS	
		Total Diversion	1.480 CFS	

Source and Point(s) of Diversion:

RAPID CREEK	SWSWNW	Sec. 22, Twp 07S, Rge 36E, BANNOCK County

Place Of Use:
IRRIGATION within BANNOCK County

T07S R36E S20	SWNE	11.0
T07S R36E S20	SENE	5.6
T07S R36E S20	SENW	4.0
T07S R36E S20	NESW	7.4
T07S R36E S20	NESE	18.0
T07S R36E S20	NWSE	17.0
T07S R36E S21	NWSW	11.0
	POU Total Acres	74.00

Conditions of Approval:

1.	E51	USE OF THIS RIGHT WITH RIGHT NO. 29-11812 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.48 CFS.
2.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4.	E55	USE OF THIS RIGHT WITH RIGHT NO. 29-11812 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 74.0 ACRES IN A SINGLE IRRIGATION SEASON.

Dates and Other Information:

86889

SCANNED
SEP 28 2022

Decreed Date: 3/22/2004
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 29D
Mitigation Plan: False

Combined Use Limits:

Rate	Volume	Acres	Water Rights
1.480		74.0	29-11813 ,29-11812

SubCase:
N/A

Water Supply Bank:

N/A

86889

SCANNED
29-11813
SEP 28 2022

IDAHO DEPARTMENT OF WATER RESOURCES **8/23/2022**

Proof Report

Water Right 29-11812

Owner Type	**Name**
Current Owner	NET PROPHET LLC

Priority Date: 4/1/1947
Basis: Decreed
Status: Active

Source	**Tributary**
UNNAMED STREAM	SINKS

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	04/01	10/31	0.600 CFS	
		Total Diversion	0.600 CFS	

Source and Point(s) of Diversion:

UNNAMED STREAM	SESENW	Sec. 21, Twp 07S, Rge 36E, BANNOCK County

Place Of Use:
IRRIGATION within BANNOCK County

T07S R36E S20	SWNE	11.0
T07S R36E S20	SENE	5.6
T07S R36E S20	SENW	4.0
T07S R36E S20	NESW	7.4
T07S R36E S20	NESE	18.0
T07S R36E S20	NWSE	17.0
T07S R36E S21	NWSW	11.0
	POU Total Acres	74.00

Conditions of Approval:

1.	E51	USE OF THIS RIGHT WITH RIGHT NO. 29-11813 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 1.48 CFS.
2.	E55	USE OF THIS RIGHT WITH RIGHT NO. 29-11813 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 74.0 ACRES IN A SINGLE IRRIGATION SEASON.
3.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Dates and Other Information:
Decreed Date: 3/22/2004
Civil Case Number: 39576

86889

SCANNED
SEP 28 2022

Judicial District: FIFTH
State or Federal: S
Water District Number: 29D
Mitigation Plan: False

Combined Use Limits:

Rate	Volume	Acres	Water Rights
1.480		74.0	29-11813 ,29-11812

SubCase:
N/A

Water Supply Bank:

N/A

29-11812

86889

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SEP 28 2022

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

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

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b.**

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.

If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

B. CHANGES IN NATURE OF USE (WaterBalance)

☐ If you propose to change the nature of use or period of use of all or part of the rights(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

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:

FOR DEPARTMENT USE ONLY

E04 8014 TOTAL 1770.—
$200.- FOR THIS APP.

Transfer contains_____ pages and_____ attachments.

Received by_____ Date_____ Preliminary check by_____ Date_____

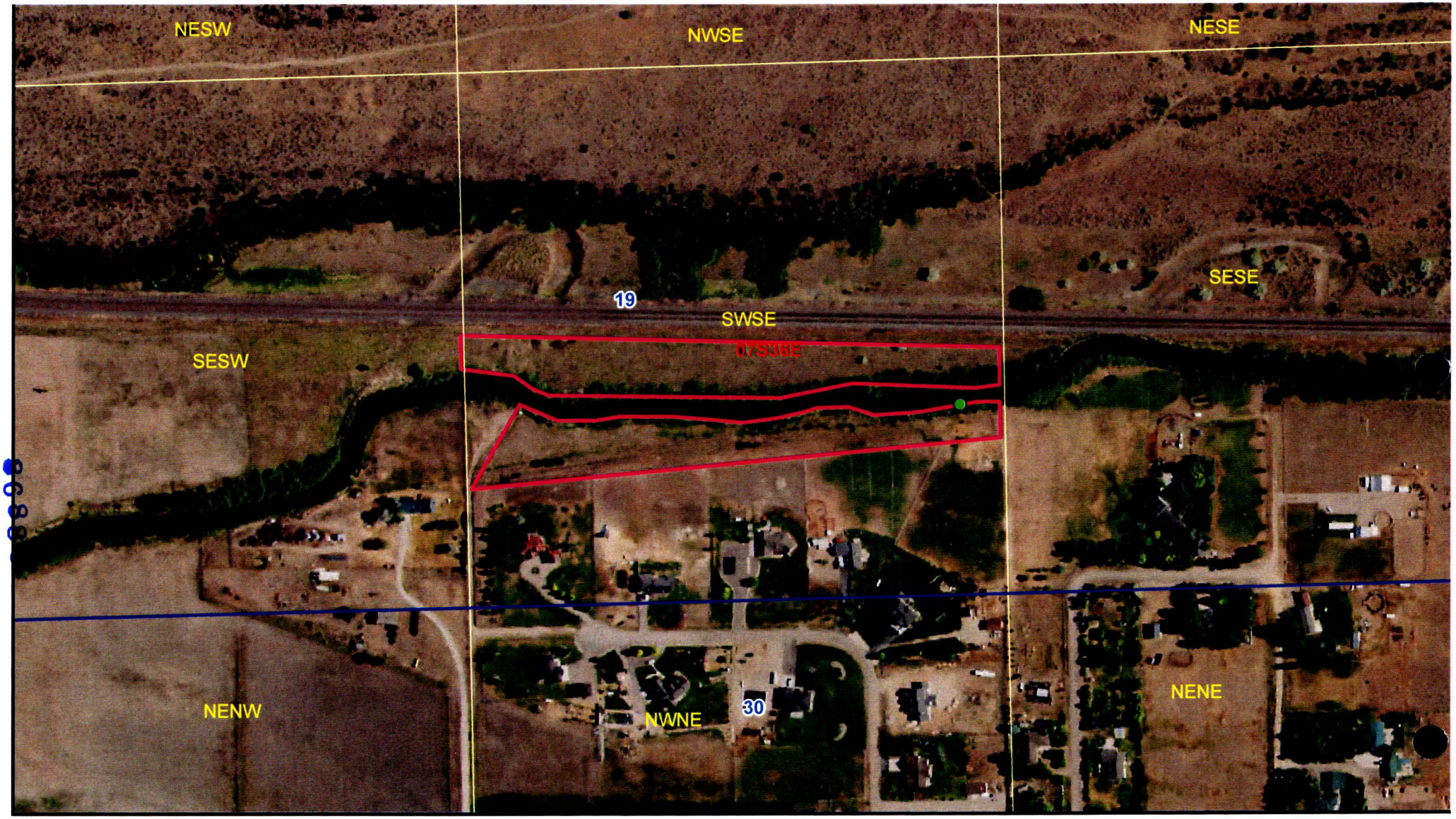
Fee paid $200.00 Date 4/13/2022 Receipted by JB Receipt # E04 8014

Add'l fee paid_____ Date_____ Receipted by_____ Receipt # _____

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

86889

SCANNED
SEP 28 2022



Legend

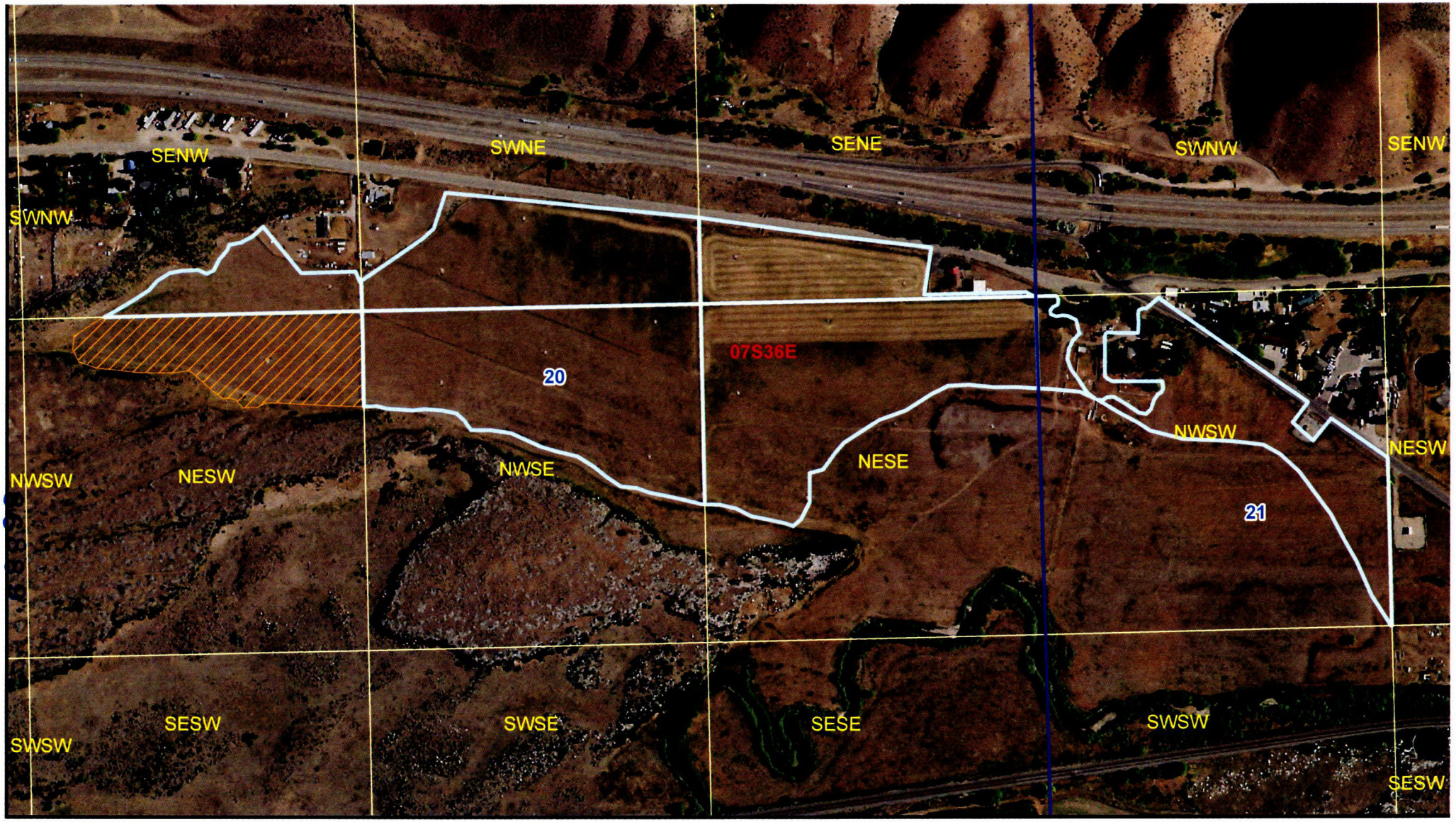
- 7 Acres POU
- POD
- Township/Range
- Sections
- QQ

Net Prophet LLC Transfer
WR 29-11812, & 29-11813

IDAHO DEPARTMENT OF WATER RESOURCES

JNebeker_IDWR

SCANNED SEP 28 2022



Legend

- Dried Up POU
- Remaining POU
- Township/Range
- Sections
- QQ

SCANNED SEP 28 2022

Net Prophet LLC Transfer
WR 29-11812, & 29-11813

IDAHO DEPARTMENT OF WATER RESOURCES

JNebeker_IDWR

Rev. 07/18

SUPERCEDE

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. All	Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☐	☑	29-11813	0.14 cfs	Irrigation	04/01 to 10/31	Portneuf River/Snake River
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	

Total authorized under rights 0.14 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.14 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 #
Y			SW	SE	19	07S	36E	Bannock	Portneuf River	

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	
07S	36E	19															7		7

Total Acres (for irrigation use) 7

SCANNED
SEP 28 2022

86889

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: 86889
Water Right No(s).: 29-11812, 29-11813

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
FEB 13 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,

Christina Henman
Administrative Assistant

Enclosure
CC:

SCANNED
FEB 13 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.: 86889
Water Right No(s).: 29-11812, 29-11813

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

CITY OF POCATELLO
911 N 7TH AVE
PO BOX 4169
POCATELLO ID 83205-4169

SOMACH SIMMONS & DUNN
CO SARAH KLAHN
1155 CANYON BLVD STE 110
BOULDER CO 80302

Christina Henman
Administrative Assistant

SCANNED
FEB 13 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.

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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.

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MEMORANDUM

Date: February 1, 2023

To: Transfer 86891

From: Jake Nebeker

Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use and the point of diversion for water right 29-11813. The 67 acres to be transferred are the acres remaining after the approval of companion Transfer 86889.

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 current and proposed place of use. The applicant has authority to make the change.

Water Right Validity:
The right included in this transfer was decreed in the SRBA in 2004. The online Climate Engine tool shows growing vegetation on the current place of use, every year since 2004. 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. The quantity authorized to be diverted will not change as a result of this transfer. The water master was notified and does not oppose the approval of this transfer as long as the applicant installs a meter and controlling works at the proposed point of diversion, per IDWR order. The transfer was advertised and was protested by the City of Pocatello. The City withdrew its protest on January 13, 2023 on the condition that the transferred right be limited to the flow in Rapid Creek at the original point of diversion..

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. This transfer proposes to eliminate water right 29-11812 completely to avoid enlargement. According to the applicant, there is never water available under water right 29-11812 and the right can be terminated.

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.

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FEB 13 2023

MEMORANDUM

Date: February 2, 2023

To: Transfer 86889

From: Jake Nebeker

Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use and the point of diversion for a 7 acre portion of water right 29-11813.

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 current place of use and Jon Thuernagle as the owner of the proposed place of use. Jon Thuernagle is a representative of the applicant and has authority to make this change.

Water Right Validity:
The rights included in this transfer were decreed in the SRBA in 2004. The online Climate Engine tool shows growing vegetation on the current place of use every year since 2004. 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. The quantity authorized to be diverted will not change as a result of this transfer. The water master was notified and does not oppose the approval of this transfer as long as the applicant installs a meter and controlling works at the proposed point of diversion, per IDWR order. The transfer was advertised and was protested by the City of Pocatello. The City withdrew its protest on January 13, 2023 on the condition that the transferred right be limited to the flow in Rapid Creek at the original point of diversion.

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. This transfer proposes to reduce overlapping water right 29-11812 by 7.0 acres (and 0.14 cfs) to avoid enlargement.

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.

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FEB 13 2023

RECEIVED
Jan 13, 2023
DEPARTMENT OF
WATER RESOURCES

Sarah A. Klahn , ISB #7928
SOMACH SIMMONS & DUNN
1155 Canyon Blvd, Suite 110
Boulder, CO 80302
Telephone: (303) 449-2834
Email: sklahn@somachlaw.com
Attorneys for City of Pocatello

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 86889, 86891	**UNOPPOSED MOTION FOR WITHDRAWAL OF CITY OF POCATELLO'S PROTEST**

Protestant, City of Pocatello ("City"), by and through its attorney, hereby requests the Idaho Department of Water Resources ("Department") issue an Order approving the withdrawal of City's protest in the captioned matter. As grounds therefor, Protestant states as follows:

1. Applicant and Protestant ("Parties") entered into a Stipulation to Resolve City of Pocatello's Protest dated January 12, 2023 ("Stipulation"). The Stipulation is attached hereto and incorporated herein as Exhibit A.

2. The Parties agree that the terms of the Stipulation shall be included in any transfer approval issued by the Department.

WHEREFORE, Protestant requests that the Department enter an order that:

A. Approve this Motion for Withdrawal of City of Pocatello's Protest;

B. Requires imposition of the terms of this Stipulation in any transfer approval entered in the cases in this matter.

Respectfully submitted this 13th day of January, 2023.

CITY OF POCATELLO

Sarah Klahn
Attorney for City of Pocatello

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of January, 2023, I caused to be served a true and correct copy of the foregoing **UNOPPOSED MOTION FOR WITHDRAWAL OF CITY OF POCATELLO'S PROTEST** by the method indicated below, addressed to the following:

Idaho Department of Water Resources Eastern Region 900 N Skyline Dr Ste A Idaho Falls, ID 83402-1718 James.Cefalo@idwr.idaho.gov Christina.henman@idwr.idaho.gov file@idwr.idaho.gov Phone: 208-497-3784	____ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Federal Express __X__ Email
Net Prophet LLC c/o Jon Thuernagle jon@mypatriot.net	____ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Federal Express __X__ Email
City of Pocatello rdiehl@pocatello.us jarmstrong@pocatello.us jmansfield@pocatello.us sallen@pocatello.us	____ U.S. Mail, Postage Prepaid ____ Hand Delivery ____ Federal Express __X__ Email

Sarah Klahn

Sarah Klahn

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FEB 13 2023

EXHIBIT A

Sarah A. Klahn , ISB #7928
SOMACH SIMMONS & DUNN
1155 Canyon Blvd., Suite 110
Boulder, CO 80302
Telephone: (303) 449-2834
Email: sklahn@somachlaw.com
Attorneys for City of Pocatello

Net Prophet LLC
c/o Jon Thuernagle
146 E. Chubbuck Rd., Suite C
Chubbuck, ID 83202
Applicant

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NOS. 86889, 86891	**STIPULATION TO RESOLVE CITY OF POCATELLO'S PROTEST**

WHEREAS, Net Prophet is the applicant for Transfer Nos. 86889 and 86891 ("Transfers");

WHEREAS the City of Pocatello ("Pocatello" or "City") filed timely protests to Transfer Nos. 86889 and 86891;

WHEREAS, the Transfers seek permission to move the point of diversion for Water Right Nos. 11813 and 11812 ("Subject Water Rights") from Rapid Creek to the Portneuf River and to move the irrigation place of use;

WHEREAS, the City of Pocatello holds decreed groundwater rights and surface water rights downstream of Net Prophet's proposed new point of diversion and place of use for the Subject Water Rights;

WHEREAS, the supply for Pocatello's groundwater and surface rights relies on groundwater in the Lower Portneuf Valley Aquifer which includes in its source flows in the Portneuf River alluvium upstream of the City;

WHEREAS, the Portneuf River may have water available for diversion at times when Rapid Creek does not;

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WHEREAS, Net Prophet's Transfers could take advantage of increased opportunities to divert the more abundant supply at the new point of diversion, resulting in an unlawful expansion of then Subject Water Rights;

WHEREAS, unlawful expansion of the Subject Water Rights would deplete the supply upon which the City's ground water rights rely and cause injury to the City;

WHEREAS, Net Prophet and the City desire to resolve the City's Protest without further litigation;

NOW THEREFORE, the Applicant and City (collectively, the "Parties") hereby stipulate and agree that the following shall be terms and conditions to any transfer approval by the Idaho Department of Water Resources ("IDWR"):

1. Diversions under Water Right Nos. 29-11183 and 11182 at the new point of diversion shall be made only when the same amounts would have been available contemporaneously at the original point of diversion on Rapid Creek.

2. If no water is available for diversion on Rapid Creek, Water Right Nos. 29-11183 and 11182 water cannot be diverted at the new point of diversion.

Dated this 12 day of January, 2023.

NET PROPHET, LLC

Jon Thuemagle
Authorized Representative

CITY OF POCATELLO

Jeffrey L. Mansfield
Public Works Director/City Engineer

Sarah Klahn
Attorney for City of Pocatello

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Cefalo, James

From: Cefalo, James
Sent: Tuesday, December 13, 2022 2:25 PM
To: 'emily@mypatriot.net'
Cc: Sarah Klahn; 'rdiehl@pocatello.us'
Subject: Applications for Transfer 86889 and 86891 (Net Prophet LLC)

Emily,

Applications for Transfer 86889 and 86891 were protested by the City of Pocatello. The Department scheduled an informal settlement conference for today at 2:00. No one showed up on behalf of Net Prophet and we ended the call. Sarah Klahn mentioned that she had prepared a settlement agreement to resolve the City's protest and had provided a copy to Net Prophet for review and signature. It sounds like you have had time to review the proposed settlement. I was hoping that we could use the conference to address any lingering concerns.

IDWR cannot approve the transfer applications until the protests are resolved, either through settlement or through an administrative hearing. Sarah noted that the City would not withdraw its protest until the settlement agreement is signed by Net Prophet. Please contact Sarah if you have any questions or concerns related to the proposed agreement. If there are still issues that require input from the Department, or if the proposed settlement falls through, let me know and I will schedule a pre-hearing conference.

James

IDAHO DEPARTMENT OF
WATER RESOURCES
James Cefalo | Regional Manager
900 N Skyline Drive, Idaho Falls, ID 83402
(208) 525-7161 | www.idwr.idaho.gov

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR TRANSFER 86889 AND 86891 IN THE NAME OF NET PROPHET LLC	)	**NOTICE OF INFORMAL SETTLEMENT CONFERENCE**

On April 13, 2022, Net Prophet LLC. filed Applications for Water Right Transfer Nos. 86889 and 86891 with the Idaho Department of Water Resources ("Department"). A protest was filed against each application by City of Pocatello.

The Department has scheduled this case for an informal settlement conference on **December 13, 2022** beginning at **2:00 pm**. The applicant and protestant(s) must attend.

Please use the following numbers to participate via Webex. Participation options are detailed on a separate document included with this notice.

Meeting number (access code): 2455 113 3053
Meeting password: IDWR2022

Agenda items for the informal settlement conference will include:

1. Review of the application and protest(s),
2. Additional informational needs,
3. Settlement options,
4. Need for additional informal proceedings or alternative dispute resolution options, and
5. Commencement of formal proceedings.

The Department encourages the applicant and protestant(s) to discuss and resolve the protest(s) before the informal settlement conference. If private discussions are not possible or do not resolve the protest(s), the informal settlement conference provides another opportunity for the applicant and protestant(s) to meet before commencing a formal hearing. Parties often settle their differences at the informal settlement conference.

If informal proceedings are unlikely to resolve this contested case, the Department will initiate formal proceedings by issuing a notice of prehearing conference and identifying a presiding officer. It is important for all parties to make the most of the opportunity to resolve the dispute informally.

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The informal settlement conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Christina Henman at 208-525-7161 or christina.henman@idwr.idaho.gov.

Dated this 14th day of November, 2022

James Cefalo
Regional Manager

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NOV 14 2022

CERTIFICATE OF SERVICE

I certify that on the 14th day of November, 2022, I served or caused to be served the Notice of Informal Settlement Conference to the parties by the following method(s):

NET PROPHET LLC
146 E CHUBBUCK RD., STE C
CHUBBUCK, ID 83202
emily@mypatriot.net

CITY OF POCATELLO
911 N 7TH AVE
POCATELLO, ID 83021
rdiehl@pocatello.us

SOMACH SIMMONS & DUNN
C/O SARAH A. KLAHN
1155 CANYON BLVD., STE 110
BOULDER, CO 80302
sklahn@somachlaw.com

Christina Henman
Administrative Assistant

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INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the Idaho Department of Water Resources (Department) considers in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original water right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. Is the proposed transfer consistent with the requirements for municipal providers, if applicable?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 4 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

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PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

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TO USE WEBEX

Meeting number (access code): 2455 113 3053
Meeting password: IDWR2022

Using Your Computer:

- Calendar invitations were sent to email addresses provided. Simply click the link included to join the meeting, and follow on-screen instructions.

Using the Mobile app:

- Download WebEx Meetings to your mobile device. (App is free.)
- Click Join Meeting.
- Enter Meeting Number, name, and email address.
- Click 'join'.
    - If you intend to share documents, maps, images, etc. please ensure that you have granted the WebEx app the appropriate permissions to access those documents before the meeting.

Using Your Telephone: (No video or internet required)

- Call 1-415-655-0001
- Follow Prompts

More options are included in the emailed link. If you have any questions, need a copy of the invitation sent to another email address, or otherwise need the link, feel free to contact Christina Henman at (208) 525-7161 or christina.henman@idwr.idaho.gov.

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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**

October 28, 2022

NET PROPHET LLC
146 E CHUBBUCK RD., STE C
CHUBBUCK, ID 83202

CITY OF POCATELLO
911 N 7TH AVE
POCATELLO, ID 83021

SOMACH SIMMONS & DUNN
C/O SARAH A. KLAHN
1155 CANYON BLVD., STE 110
BOULDER, CO 80302

RE: Application for Transfer Nos. 86889, 86891

Dear Parties:

This letter acknowledges receipt of a protest filed against each the above-referenced transfer applications from: City of Pocatello. The following options are available for the resolution of protested applications:

- Direct contact between the parties to determine the nature of the protest(s) and to attempt to resolve the protest(s). Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Discussions at an informal settlement conference between Department staff, the applicant(s), and the protestant(s). The enclosed document summarizes the informal settlement conference purpose and procedure.
- Formal proceedings administered by the Department after the informal settlement conference. If formal proceedings are necessary, the Department will schedule a prehearing conference to begin the process.

Please consider the best option(s) for resolution of the protested applications.

Meanwhile, the Department will schedule an informal settlement conference pursuant to the Department's Rules of Procedure (IDAPA 37.01.01). **Please notify the Department within 14 days of any dates you are UNAVAILABLE to participate in an informal settlement conference in the next three months.** You may provide unavailable dates via mail or via email to the email address below. If you do not notify the Department of unavailable dates, the Department will assume you are available for the informal settlement conference on any date selected. The Department may schedule the informal settlement conference as a conference phone call or in-person. The Department will send notice of the informal settlement conference once it is scheduled.

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OCT 28 2022

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information regarding the application, protest(s), water rights, and other matters administered by the Department is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Christina Henman
Administrative Assistant
Christina.henman@idwr.idaho.gov
(208) 525-7161

Enclosure: Informal Settlement Conference Procedure

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OCT 28 2022

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the Idaho Department of Water Resources (Department) considers in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original water right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. Is the proposed transfer consistent with the requirements for municipal providers, if applicable?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 4 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

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PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

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RECEIVED
Oct 20, 2022
DEPARTMENT OF
WATER RESOURCES

Rev. 04/2022

Filing Fee: $25.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 **Transfer No 86891** in the name of **Net Prophet LLC**

2. Protestant's Name: **City of Pocatello (Fee Category: Exempt**, Idaho Code § 67-2301)
Address: 911 N. 7th Avenue, Pocatello, ID 83021
Telephone: 208-234-6163
Email: rdiehl@pocatello.us

3. Protestant's Representative: Sarah A. Klahn, Somach Simmons & Dunn, P.C.
Address: 1155 Canyon Blvd., Suite 110, Boulder, CO 80302.
Telephone: 303-449-2834
Email: sklahn@somachlaw.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria.

Applicable review criteria under I.C. Section 42-222(1): Enlargement of the subject water right; injury to existing water rights; local public interest; conservation of water resources within the State of Idaho.

Objection to approval: The transfer proposes to change the point of diversion and place of use for Water Right No. 29-11813 from its current location on Rapid Creek (tributary to the Portneuf River) to a new place of use and point of on the Portneuf River mainstem. The proposed new place of use and point of diversion are located directly upstream of the City of Pocatello's ("City") urban service area. The City's primary raw water supply is comprised of groundwater rights pumped from the Lower Portneuf Valley Aquifer ("LPVA"), which is connected to the Portneuf River. The City's water rights will be injured if the proposed transfer results in an enlargement of Water Right No. 29-11813, either through more frequent diversions because of increased availability of supply or through more extensive irrigation at the new place of use. In addition to concern about injury to Pocatello's water rights, such an enlargement is not in the local public interest and does not promote the conservation of water resources within the State of Idaho.

The City notes the mention of Water Right No. 29-11812 as a water right that needs to be "brought in" to avoid an enlargement. It appears that this water right is part of the transfer in some fashion, but not clear what is envisioned; it is also not clear whether the

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transfer application is adequate as a matter of law to notice an intention to modify Water Right No. 29-11812. The concept of reducing or abandoning some or all of Water Right No. 29-11812 does not in and of itself address the enlargement issues identified above.

Identify any review criteria that are not a basis for your protest: Effect on local economy; effect on agricultural base of local area; consistency with requirements for municipal providers.

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.**

Date: October 20, 2022

By _____
Sarah A. Klahn, ISB #7928

SOMACH SIMMONS & DUNN
1155 Canyon Blvd., Suite 110
Boulder, CO 80302
Telephone: (303) 449-2834
Email: sklahn@somachlaw.com
Attorneys for City of Pocatello

SCANNED
OCT 28 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 2022, I caused to be served a true and correct copy of the foregoing **CITY OF POCATELLO'S NOTICE OF PROTEST**, by the method indicated below, addressed to the following:

Idaho Department of Water Resources Eastern Region 900 N Skyline Ste A Idaho Falls, ID 83402-1718 Gary.Spackman@idwr.idaho.gov Christina.henman@idwr.idaho.gov file@idwr.idaho.gov	__X__ U.S. Mail, Postage Prepaid __X__ Email
Net Prophet LLC c/o Jon Thuernagle 146 E Chubbuck Rd Suite C Chubbuck, ID 82303 Emily@mypatriot.net	__X__ U.S. Mail, Postage Prepaid __X__ Email

Sarah Klahn

Sarah Klahn
Somach Simmons & Dunn

FOR DEPARTMENT USE ONLY:

$25.00 fee receipted by NA-Exempt Receipt # B000001 Date 10/20/22

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OCT 28 2022

RECEIVED
Oct 20, 2022
DEPARTMENT OF
WATER RESOURCES

Rev. 04/2022

Filing Fee: $25.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 **Transfer No 86889** in the name of **Net Prophet LLC**

2. Protestant's Name: **City of Pocatello (Fee Category: Exempt**, Idaho Code § 67-2301)
Address: 911 N. 7th Avenue, Pocatello, ID 83021
Telephone: 208-234-6163
Email: rdiehl@pocatello.us

3. Protestant's Representative: Sarah A. Klahn, Somach Simmons & Dunn, P.C.
Address: 1155 Canyon Blvd., Suite 110, Boulder, CO 80302.
Telephone: 303-449-2834
Email: sklahn@somachlaw.com

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria.

Applicable review criteria under I.C. Section 42-222(1): Enlargement of the subject water right; injury to existing water rights; local public interest; conservation of water resources within the State of Idaho.

Objection to approval: The transfer proposes to change the point of diversion and place of use for Water Right No. 29-11813 from its current location on Rapid Creek (tributary to the Portneuf River) to a new place of use and point of on the Portneuf River mainstem. The proposed new place of use and point of diversion are located directly upstream of the City of Pocatello's ("City") urban service area. The City's primary raw water supply is comprised of groundwater rights pumped from the Lower Portneuf Valley Aquifer ("LPVA"), which is connected to the Portneuf River. The City's water rights will be injured if the proposed transfer results in an enlargement of Water Right No. 29-11813, either through more frequent diversions because of increased availability of supply or through more extensive irrigation at the new place of use. In addition to concern about injury to Pocatello's water rights, such an enlargement is not in the local public interest and does not promote the conservation of water resources within the State of Idaho.

The City notes the mention of Water Right No. 29-11812 as a water right that needs to be "brought in" to avoid an enlargement. It appears that this water right is part of the transfer in some fashion, but not clear what is envisioned; it is also not clear whether the

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OCT 28 2022

transfer application is adequate as a matter of law to notice an intention to modify Water Right No. 29-11812. The concept of reducing or abandoning some or all of Water Right No. 29-11812 does not in and of itself address the enlargement issues identified above.

Identify any review criteria that are not a basis for your protest: Effect on local economy; effect on agricultural base of local area; consistency with requirements for municipal providers.

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.**

Date: October 20, 2022

By _____
Sarah A. Klahn, ISB #7928

SOMACH SIMMONS & DUNN
1155 Canyon Blvd., Suite 110
Boulder, CO 80302
Telephone: (303) 449-2834
Email: sklahn@somachlaw.com
Attorneys for City of Pocatello

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OCT 28 2022

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Idaho Department of Water Resources Eastern Region 900 N Skyline Ste A Idaho Falls, ID 83402-1718 Gary.Spackman@idwr.idaho.gov Christina.henman@idwr.idaho.gov file@idwr.idaho.gov	_X_ U.S. Mail, Postage Prepaid _X_ Email
Net Prophet LLC c/o Jon Thuernagle 146 E Chubbuck Rd Suite C Chubbuck, ID 82303 Emily@mypatriot.net	_X_ U.S. Mail, Postage Prepaid _X_ Email

Sarah Klahn

Sarah Klahn
Somach Simmons & Dunn

FOR DEPARTMENT USE ONLY:

$25.00 fee receipted by N/A - Exempt Receipt # B000001 Date 10/20/22

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OCT 28 2022

EMPOWERING THE COMMUNITY SINCE 1890

IDAHO STATE JOURNAL

WWW.IDAHOSTATEJOURNAL.COM

PROOF OF PUBLICATION
Idaho State Journal

RECEIVED

OCT 2 1 2022

Department of Water Resc
Eastern Region

State of Idaho
County of Bannock

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 10/05/2022 last publication having been made on 10/12/2022, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Collins Crapo

Subscribed and sworn to before me, on this 12th day of October, 2022 Vera J Powell

VERA J POWELL
NOTARY PUBLIC - STATE OF IDAHO
COMMISSION NUMBER 20222624
MY COMMISSION EXPIRES 5-31-2028

Notary Public
My commission expires:

_____ attached jurat _____

STATE OF IDAHO

ss.

COUNTY OF BANNOCK

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

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

VERA J POWELL
NOTARY PUBLIC - STATE OF IDAHO
COMMISSION NUMBER 20222624
MY COMMISSION EXPIRES 5-31-2028

Vera J Powell

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

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OCT 28 2022

288032

AD# 288032AD#

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 86889

NET PROPHET LLC, 146 E CHUBBUCK RD STE C, CHUBBUCK, ID 83202-5054 has filed Application No. 86889 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-11813; 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 water source is Rapid Creek, but the proposed point of diversion is in SWSE Sec 19 T07S R36E for 0.14 cfs on the Portneuf River. The proposed place of use is in SWSE Sec 19 T07S R36E for 7 acres.

TRANSFER NO. 86891

NET PROPHET LLC, 146 E CHUBBUCK RD STE C, CHUBBUCK, ID 83202-5054 has filed Application No. 86891 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-11813; 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 water source is Rapid Creek, but the proposed point of diversion is in SESE Sec 20 T07S R36E for 1.34 cfs on the Portneuf River. The proposed place of use is in NESE and SESE Sec 20, NWSW and SWSW Sec 21, and NESW, Lot 3 (NWSW), and NWSE Sec19; T07S R36E for 67 acres.

TRANSFER NO. 86920

CLAIR A STUCKI and SARI A STUCKI, 6998 W PORTNEUF RD, POCATELLO, ID 83204 has filed Application No. 86920 for changes to the following water rights within BANNOCK County(s): Right No(s). 29-13210; to see a full description of these rights and the proposed transfer, please see https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion. The proposed point of diversion is in NESE Sec 21 T07S R35E for 0.02 cfs from Portneuf River. For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of $25.00 for each application on or before 10/24/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN
Director

Published: October 5, 12, 2022 (ISJ2497-288032)

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OCT 28 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. 86889

Transfer Applicant's Name: NET PROPHET LLC
146 E CHUBBUCK RD STE C
CHUBBUCK, ID 83202-5054

Watermaster's Recommendation:

a) ___X___ I do not oppose approval of this application.

b) _____ I do not oppose approval of this application if it is conditioned as follows:

c) _____ I oppose approval of this application for the following reasons:

d) ___X___ Additional comments:
This request to transfer the POD and POU should not cause any injury to any upstream or downstream water users. Measuring device and Control works will need to be put in since over 5.0 acres per IDWR order.

Dated this 18th day of October. 22

Kristin Evans
Watermaster's Signature
WD29D

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OCT 28 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 28, 2022 3:06 PM
To: watermaster29d@gmail.com
Subject: Application for Transfer No. 86920, 86889, 86891
Attachments: tmp5655.docx; tmpACDD.docx; tmp737A.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.

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OCT 28 2022

IDAHO DEPARTMENT
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718
Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

September 28, 2022

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

RE: Transfer No. 86889, Water Right No(s). 29-11813 &
Transfer No. 86891, Water Right No(s). 29-11813

Dear Applicant:

The Department of Water Resources has received your water right transfer applications. Please refer to the transfer numbers referenced above in all future correspondence regarding these transfers.

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

If the applications are protested, you will be sent a copy of each protest. All protests must be resolved before the applications 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 applications are not protested, the Department will process your applications and notify you of any action taken on the applications. If your applications are approved, the Department will send you a copy of the approval documents.

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

Sincerely,

Christina Henman
Administrative Assistant

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SEP 28 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 28, 2022 2:19 PM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for Idaho State Journal
Attachments: 86920, 86889, 86891 Idaho State Journal.docx

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

RE: Transfer No. 86889, 86891, 86920
Water Right No(s). 29-11813, 29-11813, 29-13210

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Thank You,

IDAHO DEPARTMENT OF WATER RESOURCES

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

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SEP 28 2022

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
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GARY SPACKMAN, Director Published on 10/5/2022 and 10/12/2022

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SEP 28 2022