

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86042**

This is to certify that: JANETTE S PETERSON AND
KENNETH J PETERSON
PO BOX 58
LEADORE, ID 83464
AND
STEVEN L JOHNSON AND
SUSAN JOHNSON
1019 LEE CREEK RD
LEADORE, ID 83464-5011

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
74-15714	WR/DECREED	3/25/1887	0.330 cfs	N/A	N/A	N/A	BIG EIGHTMILE CREEK
74-15715	WR/DECREED	3/25/1887	0.330 cfs	N/A	N/A	N/A	BIG EIGHTMILE CREEK
74-411	WR/DECREED	3/25/1887	0.330 cfs	N/A	N/A	N/A	BIG EIGHTMILE CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
74-15714	NO	NO	NO	NO	YES	NO
74-15715	NO	NO	NO	NO	YES	NO
74-411	NO	NO	NO	NO	YES	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
74-15714	74-15714	0.330 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
74-15715	74-15715	0.330 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
74-411	74-411	0.330 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.990 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

Transfer No. 86042

SUPPORT DATA
IN FILE # 74-411

SCANNED
OCT 26 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 86042

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 24th day of October, 2022.



Regional Manager



WATER RIGHT NO. 74-411

As Modified by Transfer No. 86042

In accordance with the approval of Transfer No. 86042, Water Right No. 74-411 is now described as follows:

Right Holder: STEVEN L JOHNSON AND
SUSAN JOHNSON
1019 LEE CREEK RD
LEADORE, ID 83464-5011

Priority Date: 3/25/1887

Source: BIG EIGHTMILE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

STOCKWATER

From

1/01

To

to 12/31

Diversion Rate

0.330 cfs

0.330 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG EIGHTMILE CREEK

SWNW

Sec 33 Twp 16N Rge 25E LEMHI County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	20									X		X	X		X	X		
16N	25E	29		X			X	X											

CONDITIONS OF APPROVAL

1. This right shall only be used to provide the quantity of water necessary for stockwater at the authorized place of use and to offset any associated conveyance losses. If pipelines and troughs are used to deliver water to stock, thereby reducing conveyance losses in the delivery system, the diversion from the creek shall be reduced accordingly to prevent waste.
2. This right shall not be used for irrigation.
3. The quantity of water under this right shall not exceed 13,000 gallons per day for stockwater use. Any water diverted in excess of 13,000 gallons per day shall only be used to offset conveyance losses.
4. The quantity of water decreed for this water right is not a determination of historical beneficial use.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.

Transfer No. 86042

SCANNED
OCT 26 2022

WATER RIGHT NO. 74-411
As Modified by Transfer No. 86042

CONDITIONS OF APPROVAL

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. Water is delivered through Diversion E-14, which is also known as the Schoonover-Freeman-Seamour Ditch.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-15714**As Modified by Transfer No. 86042**

In accordance with the approval of Transfer No. 86042, Water Right No. 74-15714 is now described as follows:

Right Holder: KENNETH J PETERSON AND
JANETTE S PETERSON
PO BOX 58
LEADORE, ID 83464

Priority Date: 3/25/1887

Source: BIG EIGHTMILE CREEK

Tributary: LEMHI RIVER

BENEFICIAL USE

STOCKWATER

From

01/01

To

to 12/31

Diversion Rate

0.330 cfs

0.330 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG EIGHTMILE CREEK

SWNW

Sec 33 Twp 16N Rge 25E LEMHI County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	20	X			X									X			X	
16N	25E	21									X		X	X					
16N	25E	28						X											
16N	25E	29	X																

CONDITIONS OF APPROVAL

1. This right shall only be used to provide the quantity of water necessary for stockwater at the authorized place of use and to offset any associated conveyance losses. If pipelines and troughs are used to deliver water to stock, thereby reducing conveyance losses in the delivery system, the diversion from the creek shall be reduced accordingly to prevent waste.
2. This right shall not be used for irrigation.
3. The quantity of water under this right shall not exceed 13,000 gallons per day for stockwater use. Any water diverted in excess of 13,000 gallons per day shall only be used to offset conveyance losses.
4. The quantity of water decreed for this water right is not a determination of historical beneficial use.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.

Transfer No. 86042

SCANNED
OCT 26 2022

WATER RIGHT NO. 74-15714

As Modified by Transfer No. 86042

CONDITIONS OF APPROVAL

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. Water is delivered through Diversion E-14, which is also known as the Schoonover-Freeman-Seamour Ditch.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 74-15715

As Modified by Transfer No. 86042

In accordance with the approval of Transfer No. 86042, Water Right No. 74-15715 is now described as follows:

Right Holder: STEVEN L JOHNSON AND
SUSAN JOHNSON
1019 LEE CREEK RD
LEADORE, ID 83464-5011

Priority Date: 3/25/1887

Source: BIG EIGHTMILE CREEK **Tributary:** LEMHI RIVER

BENEFICIAL USE **From** **To** **Diversion Rate**
STOCKWATER 01/01 to 12/31 0.330 cfs
0.330 cfs

LOCATION OF POINT(S) OF DIVERSION

BIG EIGHTMILE CREEK SWNW Sec 33 Twp 16N Rge 25E LEMHI County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	20	X			X									X			X	
16N	25E	21						X	X	X	X	X	X	X					

CONDITIONS OF APPROVAL

1. This right shall only be used to provide the quantity of water necessary for stockwater at the authorized place of use and to offset any associated conveyance losses. If pipelines and troughs are used to deliver water to stock, thereby reducing conveyance losses in the delivery system, the diversion from the creek shall be reduced accordingly to prevent waste.
2. This right shall not be used for irrigation.
3. The quantity of water under this right shall not exceed 13,000 gallons per day for stockwater use. Any water diverted in excess of 13,000 gallons per day shall only be used to offset conveyance losses.
4. The quantity of water decreed for this water right is not a determination of historical beneficial use.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74Z.

Transfer No. 86042

SCANNED
OCT 26 2022

WATER RIGHT NO. 74-15715
As Modified by Transfer No. 86042

CONDITIONS OF APPROVAL

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. Water is delivered through Diversion E-14, which is also known as the Schoonover-Freeman-Seamour Ditch.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to 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.



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 24, 2022

STEVEN L JOHNSON
SUSAN JOHNSON
1019 LEE CREEK RD
LEADORE ID 83464-5011

KENNETH J PETERSON
JANETTE S PETERSON
PO BOX 58
LEADORE ID 83464

Re: Transfer No: 86042
Water Right No(s): 74-411, 74-15714, 74-15715

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.

SCANNED
OCT 26 2022

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.

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:

BRUCE & GLENDA MCCONNELL
CO MCHUGH BROMLEY
380 SOUTH 4TH STRETT STE 103
BOISE ID 83702

SCANNED
OCT 26 2022

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 86042

Water Right No(s): 74-411, 74-15714, 74-15715

**STEVEN L JOHNSON
SUSAN JOHNSON
1019 LEE CREEK RD
LEADORE ID 83464-5011**

**KENNETH J PETERSON
JANETTE S PETERSON
PO BOX 58
LEADORE ID 83464**

**BRUCE & GLENDA MCCONNELL
CO MCHUGH BROMLEY
380 SOUTH 4TH STRETT STE 103
BOISE ID 83702**



**Christina Henman
Administrative Assistant**

SCANNED
OCT 26 2022

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WITHDRAWAL OF PROTEST

Application for ☒ Transfer ☐ Permit ☐ Amendment of Permit No. 86042

In the Name of Steven & Susan Johnson and Kenneth & Janette Peterson
Applicant

Name of Protestant: Bruce & Glenda McConnell

Represented by: Chris M. Bromley, McHugh Bromley PLLC

I hereby withdraw my protest to the above referenced matter. All of my issues of protest have been addressed and/or resolved.

☐ My withdrawal is not conditional.

Or

☒ My withdrawal is conditioned on the following:

This withdrawal of protest is conditioned on issuance of a transfer that is consistent with the August 25, 2022 draft transfer that was emailed to the parties on August 25, 2022, by James Cefalo.

 Attorney at Law 10/18/2022
Signature of Protestant or Representative Title Date

Cefalo, James

From: Cefalo, James
Sent: Monday, October 17, 2022 3:53 PM
To: Chris Bromley; 'Rob Harris'
Cc: stevenjohnson01056@gmail.com
Subject: RE: Application for Transfer 86042 (Johnson/Peterson)

Chris and Rob,

Thank you for your review. I'm glad we could find a resolution that preserves the limits from the partial decree but also protects Johnson's ability to get stockwater to his property. The resolution also clarifies how the water right should be delivered by the watermaster. Chris, when you get a moment, please email me a withdrawal of protest. Once the protest is withdrawn, I will issue the transfer approval.

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

From: Chris Bromley <cbromley@mchughbromley.com>
Sent: Monday, October 17, 2022 3:40 PM
To: 'Rob Harris' <rharris@holdenlegal.com>; Cefalo, James <James.Cefalo@idwr.idaho.gov>
Cc: stevenjohnson01056@gmail.com
Subject: RE: Application for Transfer 86042 (Johnson/Peterson)

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

James,

I spoke with my clients and can represent that they agree your proposed transfer is acceptable.

Thanks,

Chris

From: Rob Harris <rharris@holdenlegal.com>
Sent: Friday, October 14, 2022 3:40 PM
To: Cefalo, James (James.Cefalo@idwr.idaho.gov) <James.Cefalo@idwr.idaho.gov>
Cc: stevenjohnson01056@gmail.com; 'Chris Bromley' <cbromley@mchughbromley.com>
Subject: Application for Transfer 86042 (Johnson/Peterson)

James:

Later today, I will be filing a Notice of Appearance on behalf of Steven L. Johnson and Susan Johnson in the contested case for Transfer 86042. I have had a chance to review your email and attachment dated August 24, 2022, which contains proposed draft conditions to be included in the water rights subject to the transfer. Based upon my review of the Lemhi Adjudication and other adjudication documents, it is evident that the 13,000 gpd limit should not have been included in the partial decrees for the water rights subject to the transfer. While we believe there is a good case to demonstrate that the inclusion of this condition was likely automatically and inadvertently included, we think that your proposal is a reasonable one that harmonizes the conditions. We would agree to a final transfer approval like the draft transfer approval you provided.

Thanks,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405-0130
Phone: (208) 523-0620
Fax: (208) 523-9518
E-Mail: rharris@holdenlegal.com

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Robert L. Harris (ISB #7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, Idaho 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

Attorneys for Steven and Susan Johnson

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR TRANSFER 86042 IN THE NAME
OF STEVEN & SUSAN JOHNSON AND
KENNETH & JANETTE PETERSON

NOTICE OF APPEARANCE

NOTICE IS HEREBY GIVEN, that Robert L. Harris of the firm of Holden, Kidwell, Hahn & Crapo, P.L.L.C., hereby enters an appearance as counsel on behalf of Steven and Susan Johnson in the above-entitled matter.

DATED this 14th day of October, 2022.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2022, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

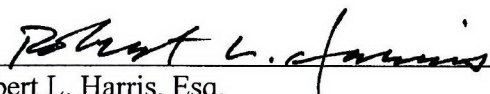
DOCUMENT SERVED: NOTICE OF APPEARANCE

ORIGINAL TO: James Cefalo
Hearing Officer
Idaho Department of Water Resources
James.Cefalo@idwr.idaho.gov
file@idwr.idaho.gov

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Chris M. Bromley
McHugh Bromley PLLC
380 S. 4th St., Ste. 103
Boise, ID 83702
cbromley@mchughbromley.com

- ☐ Mail
- ☐ Hand Delivery
- ☐ Facsimile
- ☒ Email


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Cefalo, James

From: Cefalo, James
Sent: Thursday, August 25, 2022 8:33 AM
To: stevenjohnson01056@gmail.com; Chris Bromley
Subject: RE: Application for Transfer 86042 (Johnson/Peterson)
Attachments: Draft Transfer 86042 - revised.pdf

Dear Parties:

After I emailed out the initial draft transfer approval yesterday, I reviewed the water rights and discovered that the place of use for water right 74-15715 found in our database was inconsistent with the place of use described in the SRBA partial decree. The source of the error is not clear. Perhaps the water right elements did not copy over correctly when the water rights files were imported from the SRBA Court. In any event, the place of use for water right 74-15715 should match the place of use set forth in the partial decree. I have updated the place of use in our database and in the transfer approval.

Attached is a revised draft transfer approval (dated 8/25/22). Please review the attached transfer approval and respond with any comments or concerns by October 14, 2022. I have given a six-week window for response because it is a busy time of year for farmers and ranchers. Feel free to respond sooner than the deadline if you can.

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

From: Cefalo, James
Sent: Wednesday, August 24, 2022 3:14 PM
To: stevenjohnson01056@gmail.com; Chris Bromley <cbromley@mchughbromley.com>
Subject: Application for Transfer 86042 (Johnson/Peterson)

Dear Parties:

After our informal settlement conference two weeks ago, I spoke with Merritt Udy, watermaster for Water District 74Z, to better understand the current administration of water rights 74-411, 74-15714 and 74-15715. He confirmed that it would be impossible to set Johnson's headgate to guarantee a continuous flow of 2-6 inches at the Johnson property line because of fluctuations in the creek. After my call with Merritt, I reached out to Steven Johnson for more information. He said that he has shut off the water going to his pipeline/pivots and returned to providing stockwater using open ditches. At the current flow, water does not reach the end of the Johnson ditch system. The water does not reach the Peterson property at all.

I've spent some time contemplating these water rights and the difficulties in administering the rights. I have developed some draft conditions that would limit each of the water rights to stockwater use only – up to 13,000 gallons per day for direct use by the stock. Any additional water diverted could be used to offset conveyance losses in the system but could not be used for irrigation. If a more-efficient system is used (pipelines/troughs), the excess water would be left in the creek. This will require some coordination by the watermaster. Over time, however, the water users and watermaster

8/25/2022

8/25/2022

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/25/2022

Water Right 74-15714

Owner Type **Name and Address**
Current Owner KENNETH J PETERSON
 PO BOX 58
 LEADORE, ID 83464

Current Owner JANETTE S PETERSON
 PO BOX 58
 LEADORE, ID 83464

Priority Date: 3/25/1887

Basis: Decreed

Status: Active

Source
BIG EIGHTMILE CREEK

Tributary
LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
STOCKWATER	01/01	12/31	0.330 CFS	
	Total Diversion		0.330 CFS	

Source and Point(s) of Diversion:

BIG EIGHTMILE CREEK SWNW Sec. 33, Twp 16N, Rge 25E, LEMHI County

Place Of Use:

STOCKWATER within LEMHI County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	25E	20	X			X									X			X	
16N	25E	21									X		X	X					
16N	25E	28						X											
16N	25E	29	X																

Conditions of Approval:

1. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.
2. This right is a split from former right 74-412 .
3. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
4. 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.
5. Water rights 74-411, 74-15714 and 74-15715 provide for the diversion of 1.0 cfs that shall always be allowed to be diverted through the headgate of the ditch known as the "Schoonover-Freeman-Seamour" ditch.