STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 85816

This is to certify that: CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON, ID 83644-5068

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
63-35233	WR/DECREED	10/26/1977	0.050 cfs	22.5 af	N/A	5.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-35233	NO	YES	NO	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
63-35233	63-35233	0.040 cfs	17.1 af	N/A	3.8	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**0.040 cfs**	**17.1 af**	**N/A**	**3.8**		**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 18TH day of August, 2023.

SCOTT STORMS, Water Rights Supervisor

SCANNED
AUG 23 2023

WATER RIGHT NO. 63-35233

As Modified by Transfer No. 85816

In accordance with the approval of Transfer No. 85816, Water Right No. 63-35233 is now described as follows:

Right Holder: CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON, ID 83644-5068

Priority Date: 10/26/1977

Source: GROUND WATER

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	03/15	to	11/15	0.040 cfs	56.3 af
				0.040 cfs	17.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESE Sec 20 Twp 05N Rge 02W CANYON 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
05N	02W	20													1.8			2.0	3.8

POU Total Acres: 3.8

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. 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.

Transfer No. 85816

SCANNED
AUG 2 3 2023

State of Idaho
Department of Water Resources

Attachment to Transfer No.85816

Water Right: 63-35233

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



0 0.05 0.1 0.2 Miles

Legend

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

N

SCANNED
AUG 2 3 2023

42-222 POD - 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 09 2022
WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

☑ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☑ Ownership split

☐ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. **APPLICANT(S)** Casper Family Revocable Living Trust Phone 208-949-3075
2. **MAILING ADDRESS** 26174 Moonglow Drive City Middleton
   State ID Zip 83644 Email jcasper66@gmail.com

☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.

☑ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.

☑ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☑ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 63-32792

☑ Attach a copy of the water right(s) as recorded, available at *idwr.idaho.gov, Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is .04 (diversion rate) cubic feet per second and/or _____ (storage volume) acre-feet per annum.

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
✓			SE	SE	20	05N	02W	Canyon	Ground Water	D0000512

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JAN 12 2023

Transfer No. 85816

6. **GENERAL INFORMATION**

a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Automatic irrigation system. System is within a locked shop.

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. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes	No	
☐	☑	undergone a period of five or more consecutive years of non-use,
☐	☑	currently used in a mitigation plan limiting the use of water under the right(s), or
☐	☑	currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☑ No

☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☑ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and ¼ ¼ of section information. You may create a map at idwr.idaho.gov, *Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.*

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Signature of applicant or authorized agent	Print name and title if applicable	Date
John Casper	JOHN CASPER	2-9-2022
Judy Casper	JUDY CASPER	2-9-2022

9. **FEE** – ☐ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of $50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at *www.idwr.idaho.gov, Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments. Received by CE Date 02/09/2022

Fee paid $100.00 Date 02/09/2022 Receipted by CE Receipt # W05040

Preliminary review by AB Date 2/10/22 Active in the Water Supply Bank? Yes ☐ No ☒

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

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

SCANNED

JAN 12 2023

SE SE [redacted] 05N 02W [redacted]



SCANNED
JAN 12 2023

IDAHO DEPARTMENT OF WATER RESOURCES 1/3/2022

Proof Report

Water Right 63-32792

Owner Type	**Name and Address**
Current Owner	ESTATE OF DAN W CLARKE 6815 N MOONGLOW DR TUCSON, AZ 85718 (602) 575-9434

Priority Date: 10/26/1977
Basis: Decreed
Status: Active

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	03/15	11/15	0.130 CFS	56.3 AF
	Total Diversion		0.130 CFS	56.3 AF

Source and Point(s) of Diversion

GROUND WATER SENE Sec. 20, Twp 05N, Rge 02W, CANYON County

Place Of Use

IRRIGATION within CANYON County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	02W	16												0.5					0.5
05N	02W	20													7.0			4.5	11.5
05N	02W	21					0.5												0.5

POU Total Acres: 12.5

Conditions of Approval:

1. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
2. S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. W14 Use of this right is combined with water from Black Canyon Irrigation District.
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.

Comments:

SCANNED
JAN 12 2023

1. scurtis 6/3/2008 Transferred Right
This is now a approved transfer, transfer number = 73845

2. segbert 6/24/2008 POD
Updated POD per Transfer 73845

Dates and Other Information
Decreed Date: 3/24/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: TBD
Generic Max Rate Per Acre: 0.020
Generic Max Volume Per Acre: 4.5
Mitigation Plan: False

Combined Use Limits
N/A

SubCase:
N/A

Water Supply Bank:
N/A

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JAN 12 2023

IDAHO DEPARTMENT OF WATER RESOURCES **2/22/2023**
Proof Report

Water Right 63-35233

Owner Type	**Name and Address**
Current Owner	CASPER FAMILY REVOCABLE LIVING TRUST 26174 MOONGLOW DR MIDDLETON, ID 83644-5068 (208) 949-3075
Original Owner	DAN CLARKE 2465 OVERLAND RD BOISE, ID 83705
Original Owner	JOHN W CLARK RT 1 BOX 137A CALDWELL, ID 83605
Previous Owner	ESTATE OF DAN W CLARKE 6815 N MOONGLOW DR TUCSON, AZ 85718 (602) 575-9434

Priority Date: 10/26/1977
Basis: Decreed
Status: Active

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	03/15	11/15	0.040 CFS	56.3 AF
	Total Diversion		0.040 CFS	56.3 AF

Source and Point(s) of Diversion:

GROUND WATER	SENE	Sec. 20, Twp 05N, Rge 02W, CANYON County

Place Of Use:
IRRIGATION within CANYON County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05N	02W	20													1.8			2.0	3.8

POU Total Acres: 3.8

Conditions of Approval:

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FEB 22 2023

1.		The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
2.	S39	The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3.	W14	Use of this right is combined with water from Black Canyon Irrigation District.
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.

Dates and Other Information:
Decreed Date: 3/24/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: EXC
Generic Max Rate Per Acre: 0.020
Generic Max Volume Per Acre: 4.5
Mitigation Plan: False

Combined Use Limits:
N/A

SubCase:
N/A

Water Supply Bank:

N/A

SCANNED
FEB 22 2023

Form 42-248/42-1409(6) Rev. 7/21

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
FEB 09 2022
WATER RESOURCES
WESTERN REGION

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "*Yes*" in the "*Split?*" column. If the water right is leased to the Water Supply Bank, check "*Yes*". If you are not sure if the water right is leased to the Water Supply Bank, see #7 of the instructions.

Water Right/Claim No.	Split?	Leased to Water Supply Bank?	Water Right/Claim No.	Split?	Leased to Water Supply Bank?
63-32792	Yes ■	Yes ☐		Yes ☐	Yes ☐
Split into 63-35233	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐
	Yes ☐	Yes ☐		Yes ☐	Yes ☐

2. Previous Owner's Name: Estate of Dan W. Clarke
Name of current water right holder/claimant

3. New Owner(s)/Claimant(s): Casper Family Revocable Living Trust
New owner(s) as listed on the conveyance document Name connector ☐ **and** ☐ **or**

26174 Moonglow Drive — Mailing address
Middleton — City
ID — State
83644 — Zip

208-949-3075 — Telephone
jcasper66@gmail.com — Email

4. If the water rights and/or adjudication claims were split, how did the division occur?
   - ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
   - ■ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: 08/13/2010.

6. Do you own the land identified as the water right place of use? Yes ■ No ☐
   - o If no, attach evidence that written notice of the change of water right ownership has been delivered to the landowner of record.

7. This form must be signed and submitted with the following **REQUIRED** items:
   - ■ A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
   - ☐ Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
   - ■ Filing fee (see instructions for further explanation):
     - o $25 per *undivided* water right.
     - o $100 per *split* water right.
     - o No fee is required for pending adjudication claims.
   - ☐ If water right(s) are leased to the Water Supply Bank AND there are multiple owners, a Lessor Designation form is required.
   - ☐ If water right(s) are leased to the Water Supply Bank, the individual owner or designated lessor must complete, sign and submit an IRS Form W-9.

SCANNED
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FEB 22 2023
SUPPORT DATA
IN FILE # 63-32792

8. Signature: John Casper — Signature of new owner/claimant; Title, if applicable; 2-9-2022 — Date
JOHN CASPER — Print name

Signature: Judy Casper — Signature of new owner/claimant; Title, if applicable; 2-9-2022 — Date
JUDY CASPER — Print name

For IDWR Office Use Only:

Receipted by LE Date 02/09/2022 Receipt No. W050110 Receipt Amt. $100.00

Active in the Water Supply Bank? Yes ☐ No ☒ If yes, forward to the State Office for processing W-9 received? Yes ☐ No ☐

Name on W-9 _____ Approved by _____ Processed by MW Date 3/2/22

IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082
Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

August 21, 2023

CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON ID 83644-5068

Re: Transfer No: 85816
Water Right No(s).: 63-35233

Transfer Approval Notice

Dear Water Right Holder(s):

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.

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

SCANNED
AUG 2 3 2023

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) 334-2190.

Sincerely,

Lynne Evans
Administrative Assistant I

Enclosure(s)

SCANNED
AUG 2 3 2023

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 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.: 85816
Water Right No(s).: 63-35233

CASPER FAMILY REVOCABLE LIVING TRUST (Current Owner)
26174 MOONGLOW DR
MIDDLETON ID 83644-5068

BLACK CANYON IRRIGATION DISTRICT (Protestant)
C/O ANDREW J WALDERA
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE ID 83702-7067

Lynne Evans
Administrative Assistant I

SCANNED
AUG 23 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.

SCANNED

AUG 2 3 2023

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.

SCANNED
AUG 2 3 2023

MEMORANDUM

TO:	Transfer No. 85816
FROM:	Marcelina Williams
DATE:	August 07,2023
RE:	Evaluation of Application

This transfer is in response to a change of ownership split of water right 63-32792. The purpose for transfer is to change the point of diversion (POD) to reflect the current ground water well being used for water right 63-35233 which is the child right to 63-32792.

The proposed POD is located within Section 20 of T05N, R02W.

Summary of Information Submitted

Authority to File:
IDWR records show the applicant Casper Family Revocable Living Trust is the current owner of water right 63-35233.The county assessors have the Casper Family Revocable Living Trust as the owners of the parcel associated with water right 63-35233. The application was signed by both John and Judy Casper who are the grantees of the trust.

Water Right Validity:
Water right no. 63-32792, owned by Estate of Dan Clarke, was split by the verified legal property description into child water right no. 63-35233. These rights are presumed to be valid because aerial imagery shows no evidence that would indicate five or more consecutive years of non-use.

Injury to Other Water Rights:
Transfer 85816 proposes no changes in nature of use or quantity diverted at the new point of point of diversion will not change with this transfer. No injury is anticipated.

Enlargement of Use:
The proposed changes will not result in an increase in the diversion rate, or acres irrigated. Enlargement does not appear to be an issue.

Local Public Interest:
When transfer 85816 was advertised, the Department notified Black Canyon Irrigation Company and a protest was filed. Upon review Black Canyon Irrigation Company concluded the property had not historically received water and withdrew their protest unconditionally. This transfer is not anticipated to cause potential water quality issues, impact current land use requirements on non-private land or impact fish/wildlife resources. For these reasons this application proposes a change consistent with the local public interest.

Beneficial Use/Conservation of Water Resources:
The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

SCANNED

AUG 2 3 2023

Miller, Nick

From: Miller, Nick
Sent: Monday, July 17, 2023 10:07 AM
To: Andy Waldera
Cc: Jeff Morgan; Evans, Lynne; jcasper66@gmail.com; carl@blackcanyonirrigation.com
Subject: RE: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175

Thanks, Andy.

Consider this email an acknowledgment of BCID's withdrawal of protest to the two applications. I will print this email string and place a copy in each file. I will return the files to the water rights agent to continue processing. Both the Applicant and BCID will receive a copy of any decisions in these matters.

Feel free to contact this office if you have further questions.

Nick Miller
Manager, IDWR Western Region

From: Andy Waldera <andy@sawtoothlaw.com>
Sent: Monday, July 17, 2023 9:56 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Jeff Morgan <jmorgan@brenmor.com>; Evans, Lynne <Lynne.Evans@idwr.idaho.gov>; jcasper66@gmail.com; carl@blackcanyonirrigation.com
Subject: RE: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175

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.

Good morning, All. And, thank you for the reminder Nick.

I thought that I sent out a conditional withdrawal email before, but I was mistaken (I sent another BCID one out on another matter and mistook it for this one).

Regardless, Nick's email regarding the Casper applications (for permit and for transfer) is correct. While Casper neighbors have historically received irrigation water from BCID, the Casper property is "high" ground and has not historically received water from BCID. Recall that the nature of BCID's protests to the applications was to secure use of the District's surface water for irrigation prior to use of groundwater. But absent any BCID surface water delivery entitlement, there is no "surface water first" concern.

Consequently, please treat this email as a withdrawal of BCID's pending protests to BOTH Casper applications (permit and transfer), and please continue processing both as the applicants and IDWR see fit.

Nick—if you need something more than this email for purposes of resolving this matter, please let me know.

Regards,
Andy

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AUG 2 3 2023

Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC
andy@sawtoothlaw.com
www.sawtoothlaw.com
Telephone: (208) 629-7447 ext. 216
Facsimile: (208) 629-7559
P.O. Box 7985, Boise, Idaho, 83707

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From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Monday, July 10, 2023 10:52 AM
To: Andy Waldera <andy@sawtoothlaw.com>
Cc: Jeff Morgan <jmorgan@brenmor.com>; Evans, Lynne <Lynne.Evans@idwr.idaho.gov>; jcasper66@gmail.com; carl@blackcanyonirrigation.com
Subject: RE: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175

Hi,

At the conference on the 30th we discussed that the Casper property did not historically have a surface water entitlement with BCID and that BCID would likely withdraw its protests via email along with a written acknowledgment that surface water is not available to this property. I thought I would send out an email to keep this on our radars. I know I have largely lost track of things over the holiday week, so this is as much for me as it is a reminder for Andy.

Thanks,

Nick.

From: Miller, Nick
Sent: Wednesday, June 21, 2023 6:27 PM
To: Evans, Lynne <Lynne.Evans@idwr.idaho.gov>; jcasper66@gmail.com; carl@blackcanyonirrigation.com; Andy Waldera <andy@sawtoothlaw.com>
Cc: Jeff Morgan <jmorgan@brenmor.com>; Evans, Lynne <Lynne.Evans@idwr.idaho.gov>
Subject: RE: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175

Hi all,

At the conference last week we set a follow up for Friday, June 30 at 10:00 am by telephone. Here is information to participate by phone or video conference:

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-- Do not delete or change any of the following text. --

When it's time, join your Webex meeting here.

Join meeting

More ways to join:

Join from the meeting link
https://idahogov.webex.com/idahogov/j.php?MTID=mac22e93c9207e6eeeda1b0d5d3136b20

Join by meeting number
Meeting number (access code): 2633 421 7241
Meeting password: Wm2FhUE6pE3

Tap to join from a mobile device (attendees only)
+1-415-655-0001,,26334217241## US Toll

Join by phone
+1-415-655-0001 US Toll
Global call-in numbers

Join from a video system or application
Dial 26334217241@idahogov.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

From: Evans, Lynne <Lynne.Evans@idwr.idaho.gov>
Sent: Tuesday, May 30, 2023 11:17 AM
To: jcasper66@gmail.com; carl@blackcanyonirrigation.com; Andy Waldera <andy@sawtoothlaw.com>
Cc: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Subject: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175

Dear parties:

Please see the attached Notices of Informal Settlement Conference regarding Application for Transfer No. 85816 and Application for Permit No. 63-35175. This notice has also been sent by mail to all parties who have not requested service by email.

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If you have any questions, please reach out to me or Nick Miller.

Regards,

Lynne Evans | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

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AUG 2 3 2023

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 85816 IN THE NAME OF CASPER FAMILY REVOCABLE LIVING TRUST	)	**NOTICE OF INFORMAL SETTLEMENT CONFERENCE**

On 2/9/2022, CASPER FAMILY REVOCABLE LIVING TRUST filed Application for Water Right Transfer No. 85816 with the Idaho Department of Water Resources ("Department"). Protest(s) were filed by BLACK CANYON IRRIGATION DISTRICT.

The Department has scheduled this case for informal settlement conference on Thursday, June 15, 2023 beginning at 10:00 AM at IDAHO DEPT OF WATER RESOURCES, WESTERN REGION, 2735 AIRPORT WAY BOISE, ID 83705. The applicant and protestant(s) must attend. If the parties wish to participate via telephone or video conference, requests should be directed to Lynne Evans at 208-605-4622.

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.

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,

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AUG 2 3 2023

please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Lynne Evans at 208-605-4622.

Dated this 30 day of May, 2023.

Lynne Evans
Administrative Assistant I

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AUG 2 3 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of May, 2023, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON, ID 83644-5068
(208) 949-3075
jcasper66@gmail.com
Applicants

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

BLACK CANYON IRRIGATION DISTRICT
PO BOX 226
NOTUS, ID 83656-0226
(208) 459-4141
carl@blackcanyonirrigation.com
Protestant

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

ANDREW J. WALDERA
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE, ID 83702-7067
(208) 969-9585
andy@sawtoothlaw.com
Attorney for Black Canyon Irrigation District

- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Facsimile
- ☒ Email

Lynne Evans
Administrative Assistant I

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AUG 2 3 2023

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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Evans, Lynne

From: Evans, Lynne
Sent: Tuesday, May 30, 2023 11:17 AM
To: jcasper66@gmail.com; carl@blackcanyonirrigation.com; Andy Waldera
Cc: Miller, Nick
Subject: Informal Settlement Conference: Application for Transfer No. 85816, Permit No. 63-35175
Attachments: ISC Notice 85816.pdf; ISC Notice 63-35175.pdf

Dear parties:

Please see the attached Notices of Informal Settlement Conference regarding Application for Transfer No. 85816 and Application for Permit No. 63-35175. This notice has also been sent by mail to all parties who have not requested service by email.

If you have any questions, please reach out to me or Nick Miller.

Regards,

Lynne Evans | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

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AUG 2 3 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082
Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little **Director Gary Spackman**

May 05, 2023

CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON, ID 83644-5068
Via email: jcasper66@gmail.com

BLACK CANYON IRRIGATION DISTRICT
PO BOX 226
NOTUS, ID 83656-0226
Via email: carl@blackcanyonirrigation.com

ANDREW J. WALDERA
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
BOISE, ID 83702-7067
Via email: andy@sawtoothlaw.com

RE: Application for Transfer No(s). 85816

Dear Parties:

This letter acknowledges receipt of a protest(s) filed against Application for Transfer No(s). 85816. 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 application.

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 on the calendars enclosed.** 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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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,

Lynne Evans
Administrative Assistant I
(208) 605-4622
Lynne.Evans@idwr.idaho.gov

Enclosure(s): Informal Settlement Conference Procedure, Availability Calendar

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AUG 23 2023

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR TRANSFER

ISSUES

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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?
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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

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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

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Evans, Lynne

From: Evans, Lynne
Sent: Friday, May 5, 2023 12:20 PM
To: jcasper66@gmail.com; carl@blackcanyonirrigation.com; Andy Waldera
Cc: Miller, Nick
Subject: Protest Acknowledgement: Application for Transfer No. 85816; Permit No. 63-35175
Attachments: 85816 Protest Letter.pdf; 63-35175 Protest Letter.pdf

Dear parties:

Please see the attached letters acknowledging protests received against Application for Transfer No. 85816 and Application for Permit No. 63-35175.

These letters have also been sent by mail to all parties who have not requested service by email. Applicants, if you would like to receive future correspondence on this matter served via email only, please reply to this message to let me know.

Regards,

Lynne Evans | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

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AUG 2 3 2023

Miller, Nick

From: Miller, Nick
Sent: Friday, March 31, 2023 5:04 PM
To: Jeff Morgan; Andy Waldera; jcasper66@gmail.com
Cc: Debby Long; Williams, Marcelina
Subject: RE: Application for Permit No. 63-35175 and Transfer Application No. 85816

Hello all,

I apologize for the delay in responding. It sounds like we are zeroing in on a resolution, so here is my take on what happens next:

First, I want to acknowledge that 63-32792 does already have a supplemental condition and, through the transfer, IDWR would update the supplemental condition by replacing it with the modern version that Andy provided in red text earlier. It sounds like that would resolve BCID's protest to the transfer. Similarly, if approval of the application for a new water right (63-35175) also contains that condition, BCID's protest would be resolved for the application.

Second, we will need to formalize BCID's conditional withdrawal. This could be as simple as an email acknowledgment from Andy and the Caspers that this resolution is acceptable. I see that Andy and Jeff have already more or less provided this, but we should document agreement from the applicants themselves since Jeff was not listed as a representative of the Caspers.

Although I don't think this will affect these two applications substantially, I noticed the ownership change split was not completed correctly. The Caspers have access to a larger portion of 63-32792 (acreage wise) than what was described in the February 22 letter we sent. As a result, the transfer application likely should be amended to consolidate the entire 5-acre portion onto the pasture area. This will increase the amount of water that right could provide for the pasture, which would reduce the amount needed from the new application to supplement up to a full duty of water. Incidentally, the acreage of the pasture seems to be closer to 3.2 acres, rather than 4.5 acres, so this also will reduce the amount needed under the new application. I have attached an image showing my acreage estimations for reference.

Lastly - I want to make the Caspers aware that they likely will need to file another application to irrigate their lawn and landscaping. As I read the applications, the Caspers intend to irrigate their lawn and landscaping solely with groundwater from the existing well under a domestic exemption. The domestic exemption would allow them to irrigate up to ½ acre associated with the home. However, the lawn and landscaping area looks to be larger than authorized under the domestic exemption (it looks to be just over an acre),so another water right authorization must be obtained. I suppose an alternative could be to utilize the new application for the lawn and landscaping (provided the lawn and landscape irrigation is supplemental to using surface water unless BCID agrees to an exception for the lawn and landscaping part).

So, next steps should probably be a phone call or meeting with the Caspers to discuss changing their filings. I should note that the Caspers could proceed without making any changes to the applications, but I wanted to make sure they understand the options.

I would expect that, once the filings are confirmed or amended, BCID would be contacted to reevaluate the settlement and finalize as appropriate.

I will ask Marcelina to correct the ownership change and provide notice to both owners (an update of the February 22 letter), and to reach out to the Caspers to discuss this and schedule a meeting or phone call as needed.

Please let me know if there are any concerns about this process.

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Thanks,

Nick Miller
Manager, IDWR Western Region



From: Jeff Morgan <jmorgan@brenmor.com>
Sent: Tuesday, February 28, 2023 12:11 PM
To: Andy Waldera <andy@sawtoothlaw.com>; Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Debby Long <debby@sawtoothlaw.com>
Subject: RE: Application for Permit No. 63-35175 and Transfer Application No. 85816

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.

Thanks Andy. My mother and father-in-law actually received a letter from IDWR the same day we spoke, last Friday, that included essentially the same verbiage you outlined below. Based on this letter, which I have also attached, it's our

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understanding that the original water right 63-32792 has been split into two water rights, 63-32792 and 63-35233. Since we are not changing the point of diversion on the surface water right, we do not need to file a Transfer of Water Right. We also understand that we can use the ground water right as supplemental based upon the conditions outline on page three of the letter.

If our understanding is correct, I don't believe any further action is required from my in-laws, IDWR or Black Canyon Irrigation District and that my in-laws can exercise their use of the water rights. Please confirm.

Jeff Morgan
(208) 272-0802

From: Andy Waldera <andy@sawtoothlaw.com>
Sent: Tuesday, February 28, 2023 11:32 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Cc: Jeff Morgan <jmorgan@brenmor.com>; Debby Long <debby@sawtoothlaw.com>
Subject: Application for Permit No. 63-35175 and Transfer Application No. 85816

Good morning, Nick.

I write you regarding the above-referenced pending applications. Both drew protests from BCID. Copied on this email is Jeff Morgan who reached out to me on behalf of the applicants (who I understand to be his in-laws).

As you can glean from the protests, BCID's issue with both applications is straightforward—it merely seeks inclusion of the following IDWR-standard supplemental use remark on any permit and license, as well as any approved transfer, that may issue in relation to the above-referenced applications:

"The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval."

I spoke to Jeff about these concepts but he has yet to see the text of the proposed IDWR condition. Assuming that the Caspers are agreeable to the inclusion of the remark going forward, Jeff (or the Caspers) can respond to this email signaling their agreement and IDWR can treat that email chain as a conditional withdrawal of BCID's pending protests to the applications.

Thanks,
Andy

Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC
andy@sawtoothlaw.com
www.sawtoothlaw.com
Telephone: (208) 629-7447 ext. 216
Facsimile: (208) 629-7559
P.O. Box 7985, Boise, Idaho, 83707

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OFFICES, PLLC

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Rev. 04/2022

Filing Fee: $25.00

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FEB 06 2023

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESROUCRES

NOTICE OF PROTEST

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

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☑ Transfer ☐ Exchange
   No. 85816 in the name of Casper Family Revocable Living Trust
2. Protestant's Name: Black Canyon Irrigation District
   Address: P.O. Box 226, Notus, ID 83656
   Telephone: (208) 459-4141 Email: carl@blackcanyonirrigation.com
3. Protestant's Representative: Andrew J. Waldera of Sawtooth Law Offices, PLLC
   Address: 1101 W. River Street, Suite 110, Boise, ID 83702
   Telephone: (208) 629-7447 Email: andy@sawtoothlaw.com
4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See *Instructions for Filing a Notice of Protest* for the relevant review criteria.
   The proposed irrigation place of use is located within Black Canyon Irrigation District. The District seeks imposition of a transfer condition of approval acknowledging that groundwater use for irrigation is supplemental to the primary surface water supply.

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

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

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

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been propertly 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.**

Protestant's or Representative's Signature	Andrew J. Waldera, Attorney for Protestant Printed Name and Title (if applicable)	2/6/2023 Date

FOR DEPARTMENT USE ONLY

$25.00 fee receipted by LE Receipt # W0501005 Date 2/6/23

SCANNED

FEB 22 2023

RECEIVED
JAN 30 2023
WATER RESOURCES
WESTERN REGION

23100 323898
1 IDWR - WESTERN REGION

2735 AIRPORT WAY
BOISE, ID 83705

AFFIDAVIT OF PUBLICATION
STATE OF IDAHO

County of Canyon and Ada

SHARON JESSEN
of the State of Idaho, being of first duly sworn, deposes and says:

1. That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not a party to the above entitled action.
2. That I am the Principle Clerk of the Idaho Press-Tribune, a daily newspaper published in the Counties of Canyon and Ada, State of Idaho; that the said newspaper is in general circulation in the said counties of Canyon and Ada, and in the vicinity of Nampa, Caldwell, and Boise, and has been uninterruptedly published in said Counties during a period of seventy -eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
3. That the notice, of which the annexed is a printed copy, was published in said newspaper 2 times(s) in the regular and entire issue of said paper, and was printed in the newspaper proper, and not in a supplement

That said notice was published the following: 01/19/2023, 01/26/2023

Sharon Jessen

SHARON JESSEN
STATE OF IDAHO

On this 27th day of January, in the year of 2023 before me a Notary Public, personally appeared. SHARON JESSEN, known or identified to me to be the person whose name is subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledge to me that he/she executed the same.

Angela Sammons

Notary Public of Idaho
My commission expires

ANGELA SAMMONS
NOTARY PUBLIC
MY COMMISSION EXPIRES 3-4-2028
STATE OF IDAHO
COMMISSION NUMBER 20220970

323898

SCANNED
FEB 22 2023

AD# 323898AD#

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-35175
JOHN A. CASPER JUDY A. CASPER
26174 MOONGLOW DR MIDDLETON, ID 83644-5068
Point of Diversion SESE S20 T05N R02W CANYON County
Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.14 CFS
Total Diversion: 0.18 CFS
Date Filed: 12-20-2021
Place Of Use: DOMESTIC, IRRIGATION
T05N R02W S20 SESE
Place Of Use: IRRIGATION
T05N R02W S20 NESE
Total Acres: 4.5
Water bearing zone to be appropriated is 95 to 190 feet.

63-35342
JASON HOLT
28801 HEXON RD PARMA, ID 83660-6518
Point of Diversion NWNW S17 T05N R05W CANYON County
Source BOISE RIVER Tributary SNAKE RIVER
Use: DIVERSION TO STORAGE 11/16 to 02/28 0.52 CFS
Use: WILDLIFE STORAGE 11/16 to 02/28 198.4 AF
Use: AESTHETIC STORAGE 11/16 to 02/28 198.4 AF
Use: RECREATION STORAGE 11/16 to 02/28 198.4 AF
Total Diversion: 0.52 CFS; 198.4 AF
Date Filed: 11-08-2022
Place Of Use: AESTHETIC STORAGE, RECREATION STORAGE, WILDLIFE STORAGE
T05N R05W S17 NWNW
Place Of Use: AESTHETIC STORAGE, RECREATION STORAGE, WILDLIFE STORAGE
T05N R05W S8 SWSW

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of $25.00 for each application on or before 2/6/2023. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85816

CASPER FAMILY REVOCABLE LIVING TRUST, 26174 MOONGLOW DR, MIDDLETON, ID 83644-5068 has filed Application No. 85816 for changes to the following water rights within CANYON County(s): Right No(s). 63-35233; 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: to change the point of diversion to be located in the SESE of Sec. 20, T05N, R02W.

For additional information concerning the property location, contact Western Region office at (208)334-2190. 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, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of $25.00 for each application on or before 2/6/2023. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

January 19, 26, 2023 323898

OK LG 2/17/23

OK LG 2/17/23

OK LG 2/17/23

RECEIVED
JAN 30 2023
WATER RESOURCES
WESTERN REGION

SCANNED
FEB 22 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082
Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

January 11, 2023

CASPER FAMILY REVOCABLE LIVING TRUST
26174 MOONGLOW DR
MIDDLETON, ID 83644-5068

RE: Transfer No. 85816
Water Right No(s). 63-35233

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the PRESS TRIBUNE on 1/19/2023 and 1/26/2023. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

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

Sincerely,

Lynne Evans
Administrative Assistant I

SCANNED
JAN 12 2023

Evans, Lynne

From: Evans, Lynne
Sent: Wednesday, January 11, 2023 4:16 PM
To: Legals@idahopress.com
Subject: Legal Notice for Application for Permit No. 63-35175, 63-35342; Transfer No. 85816; Water Right No(s). 63-35233
Attachments: Legal Notice.docx

Please publish the enclosed legal notice in the Idaho Press-Tribune 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 2/6/2023. Your cooperation is appreciated.

Lynne Evans | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

SCANNED
JAN 12 2023

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Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Western office at (208)334-2190; or for a full description of the right(s), please see https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 W AIRPORT WAY, BOISE ID 83705-5082 together with a protest fee of $25.00 for each application on or before 2/6/2023. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director Published on 1/19/2023 and 1/26/2023

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85816

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to change the point of diversion to be located in the SESE of Sec. 20, T05N, R02W.

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GARY SPACKMAN, Director Published on 1/19/2023 and 1/26/2023

SCANNED
JAN 12 2023

Evans, Lynne

From: Evans, Lynne
Sent: Wednesday, January 11, 2023 4:55 PM
To: andy@sawtoothlaw.com
Subject: Application for Transfer No. 85816

Dear Interested Party:

The Department of Water Resources (IDWR) is seeking written comment and/or recommendations from Black Canyon Irrigation District regarding the above referenced water right application. You can find a copy of the application at: https://research.idwr.idaho.gov/apps/waterrights/wrajsearch/wradjsearch.aspx.

IDWR can finish reviewing an unprotested application as soon as the protest period has passed. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a $25.00 filing fee within 10 days of the final publication.

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

Lynne Evans | Administrative Assistant I
IDWR - Western Region
2735 W Airport Way, Boise ID 83705
(208) 334-2190 | lynne.evans@idwr.idaho.gov

SCANNED
JAN 12 2023

March 2017

REVIEW CHECKLIST TRANSFER -- OR -- EXCHANGE

(Workflow) (maybe Workflow)

Application # 85816 **Reviewer** MW **Date** 03·02·22

Acceptable Filing (TP Memo #24 Sect. 3) X Y ____ N If "N" 30-day Deficiency Ltr Sent _____(date & initial)

Initial Review & Abbreviated Data Entry _____ (date & initial) Supervisor Notes ____Y ____N

Right(s) in Water Bank _____ Y X N, Notify S.O. _____ (date) - WSB App Attachment _____

COMMENT LETTERS X Y _____ N

Water District # _____ (Required even if No Legal Notice Required)

Other(s): list here or see attached Black Canyon Irr

ADVERTISING X Y _____ N If "N" Save Legal Notice Not Required DB Comment in Workflow & Memo ___

Legal Notice Required - Saved as Legal Notice Remarks in Workflow _____Y *uncheck "Currently in Data Entry" flag

Statewide ads _____ Y X N ("Y" only if any single right > 10 cfs, 1000 af storage)

COMPLETE TO HERE BEFORE FORWARD FOR ADVERTISING

ADVERTISER COMPLETES

LEGAL NOTICE & PROTEST

Protest Deadline 2/6/23

Y	N			
✓	____	Protested	If Y: ____	Scan protest
✓	____	Affidavit received/published correctly	If N:____	Re-advertised & published correctly

REVIEW MEMO -- DRAFT APPROVAL -- APPROVAL COVER LETTER

Drilling fee upgrade _____ Paid _____WC & WR File Documented (Request, CAN NOT hold xFer if unpaid).

Review Memo Completed X (See Review Memo Template N:/WRProcessing/Transfers/Review Memo Template).

Data Entry, Conditions, & ArcMap Data Entry Completed X

E'folder w/ Draft Approval _____

(applicant last name + application #)

NOTE FOR CLERICAL STAFF APPROVAL COVER LETTER

Add WSB paragraph to approval cover letter (see N:WRFormLetters/Water Bank Paragraph) _____ Y X N

March 2017

OPTIONAL PAGE -- CONDITIONS & NOTES

GROUNDWATER:

WD 161 (Non-de minimis uses) - R05
- ≤ 0.24 cfs/5 acres - No MD
- > 0.24 cfs/5 acres - 214

~~WD~~
- < 0.24 cfs/5 acres - No MD
- ≥ 0.24 cfs/5 acres - 01M or 01Q (ref. MD flowchart)

No water measurement districts in Western Region at this time.
DRILLING PERMIT - 046 (new well)

SURFACE WATER:

WD - R05
≤ 0.20 cfs - R02, 01P or No MD (ref. MD flowchart)
> 0.20 cfs - R43
~~WD~~, SPRINGS/SINK, INACTIVE WD & REST OF STATE
- < 0.24 cfs/5 acres - No MD
- ≥ 0.24 cfs/5 acres - 01M or 01Q

STANDARD SEASON _____ to _____ (use X61 if extended season)
STANDARD VOLUME_____ af/ac
CONSUMPTIVE USE VOLUME _____ af/ac

USES:

STORAGE - 18C-18B/R40-123-220-219-221-222-259-937-938
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
Volume only - R58/R59/R60/R61
Supplemental - 943 & WB7
Storage - R70
STOCKWATER - R37 (all BLM/USFS)
MINING - 054-106
FISH PROP - 029 (70's basins only)-007-122-106
HEAT/COOL - R07 (injection well)
FIRE PROT. - 077-218
DAIRY - 082 (zoning if a concern)-106-WD8

POWER - 17H-17K (+uses)-025-106
MUNICIPAL
Restricted area - 022-075 RAFN – 007-109-X64
Irr., GW supp to SW - 102

DOMESTIC
Surface water - WB5 (Boise above Star Bridge)
>1 in restricted area - 070-071-075(no parks/common areas, etc)
Irr use listed separate - WB5

MISC CONDITIONS/REMARKS:

- **T07** - 1 yr to develop
- **T08** - comply or rescind
- **WD8** - land application of waste water
- **01Q** - used instead of 01M when there's another meas. condition outside a WD

Protested - 020-X19
Water Quality - 106-R07

X27 - Number of acres/season in ppu
X35 - Combined **limits** of multiple rts
X49 - measure p/'d's (source chg'd to orig trib)
X51 - 2+ yrs to develop
X53 - Use ltd to orig. source availability
X54 - forfeited ac/rate (used rarely)
205 - use when quantity reduced by xFer approval
X55 - (transfer shrinks total water to less ac)
004 - no right-of-way
X58 - pending claim (statutory or AJ b/u claim)
X61 - extended irr season
X63 - replaced C12 through C17 - ultimately C18 placed on rts to cover issue. If C18 on rts replace with T19 and remove X63.

Apply one to chg'd & unchg'd rts that are subject to SRBA:

- **T09** - on-going SRBA (no Dir Rpt yet)
- **T19** - replaces C18 (if at Directors Report or Partial Decree stage)
- **T20** – use only on unchg'd rts not subject to SRBA

NOTES:

11.5 ac on Proof Report for 63-32792