

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86483**

This is to certify that: **BRADY DOWDING AND
HEIDI DOWDING
2455 DIANE LN
POCATELLO, ID 83201-1906**

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>
75-14566	WR/DECREED	7/15/1910	0.050 cfs	N/A	N/A	2.3	SALMON RIVER
75-14568	WR/DECREED	11/14/1961	0.050 cfs	6.8 af	N/A	2.3	LAKE CREEK
75-2149G	WR/DECREED	11/14/1961	0.220 cfs	21.0 af	6.9	10.9	LAKE CREEK
75-4033G	WR/DECREED	8/15/1955	0.140 cfs	N/A	6.9	6.9	SALMON RIVER

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>
75-14566	NO	YES	NO	NO	NO	NO
75-14568	NO	YES	NO	NO	NO	NO
75-2149G	NO	YES	YES	NO	NO	NO
75-4033G	YES	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
75-14566	75-14566	0.050 cfs	N/A	N/A	2.3	N/A	N/A	N/A	N/A	N/A
75-14568	75-14568	0.050 cfs	6.8 af	N/A	2.3	N/A	N/A	N/A	N/A	N/A
75-2149G	75-2149G	0.220 cfs	21.0 af	6.9	7.1	N/A	N/A	N/A	N/A	N/A
75-4033G	75-15056	0.110 cfs	N/A	5.2	7.1	75-4033G	0.030 cfs	N/A	N/A	1.7
COMBINED TOTALS		0.430 cfs	N/A	9.4	9.4		N/A	N/A	N/A	N/A

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

Dated this 21st day of December, 2022.



Regional Manager

Transfer No. 86483

SCANNED

DEC 21 2022

WATER RIGHT NO. 75-2149G
As Modified by Transfer No. 86483

In accordance with the approval of Transfer No. 86483, Water Right No. 75-2149G is now described as follows:

Right Holder: BRADY DOWDING AND
 HEIDI DOWDING
 2455 DIANE LN
 POCA TELLO, ID 83201-1906

Priority Date: 11/14/1961

Source: LAKE CREEK

Tributary: SALMON RIVER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to 10/31	0.220 cfs	21.0 af
			0.220 cfs	21.0 af

LOCATION OF POINT(S) OF DIVERSION

LAKE CREEK SWNW Sec 36 Twp 20N Rge 21E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							6.8	0.3									7.1
									L 5	L 4									

Right Acre Limit: 6.9

POU Total Acres: 7.1

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 6.9 acres within the authorized place of use in a single irrigation season.
2. Rights 75-2149G and 75-15056 when combined shall not exceed the irrigation of 7.1 acres.
3. 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. 170.
4. 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).
5. Point of diversion is located within Lot 10, Ponderosa Estates Subdivision.

Transfer No. 86483

SCANNED
 DEC 21 2022

WATER RIGHT NO. 75-2149G
As Modified by Transfer No. 86483

CONDITIONS OF APPROVAL

6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
7. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Lake Creek in T19N, R21E, Sec 2, Lot 1 SENENE.
8. Diversion of water under this right is limited to the quantity of water available under this right at the original point of diversion on Lake Creek or the quantity of water at the confluence of Lake Creek and the Salmon River, whichever is less.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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. 75-14566

As Modified by Transfer No. 86483

In accordance with the approval of Transfer No. 86483, Water Right No. 75-14566 is now described as follows:

Right Holder: BRADY DOWDING AND
HEIDI DOWDING
2455 DIANE LN
POCATELLO, ID 83201-1906

Priority Date: 7/15/1910

Source: SALMON RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.050 cfs

0.050 cfs

LOCATION OF POINT(S) OF DIVERSION

SALMON RIVER

SWNW

Sec 36 Twp 20N Rge 21E LEMHI County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							0.1	2.2									2.3
									L 5	L 4									

POU Total Acres: 2.3

CONDITIONS OF APPROVAL

1. Rights 75-14566 and 75-14568 when combined shall not exceed the irrigation of 2.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 170.
3. 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).
4. Point of diversion is located within Lot 10, Ponderosa Estates Subdivision.
5. Place of use is located within Lots 9, Ponderosa Estates Subdivision.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Transfer No. 86483

SCANNED

DEC 21 2022

WATER RIGHT NO. 75-14566
As Modified by Transfer No. 86483

CONDITIONS OF APPROVAL

7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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. 75-14568**As Modified by Transfer No. 86483**

In accordance with the approval of Transfer No. 86483, Water Right No. 75-14568 is now described as follows:

Right Holder: BRADY DOWDING AND
HEIDI DOWDING
2455 DIANE LN
POCATELLO, ID 83201-1906

Priority Date: 11/14/1961

Source: LAKE CREEK

Tributary: SALMON RIVER

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	04/01	to 10/31	0.050 cfs	6.8 af
			0.050 cfs	6.8 af

LOCATION OF POINT(S) OF DIVERSION

LAKE CREEK SWNW Sec 36 Twp 20N Rge 21E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							0.1	2.2									2.3
									L 5	L 4									

POU Total Acres: 2.3

CONDITIONS OF APPROVAL

1. Rights 75-14566 and 75-14568 when combined shall not exceed the irrigation of 2.3 acres.
2. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 170.
3. 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).
4. Point of diversion is located within Lot 10, Ponderosa Estates Subdivision.
5. Place of use is located within Lots 9, Ponderosa Estates Subdivision.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

Transfer No. 86483

SCANNED
DEC 21 2022

WATER RIGHT NO. 75-14568

As Modified by Transfer No. 86483

CONDITIONS OF APPROVAL

7. Diversion of water under this right is limited to those times when water is available for diversion under the priority of this right at the original point of diversion from Lake Creek in T19N, R21E, Sec 2, Lot 1 SENENE.
8. Diversion of water under this right is limited to the quantity of water available under this right at the original point of diversion on Lake Creek or the quantity of water at the confluence of Lake Creek and the Salmon River, whichever is less.
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
10. This right does not grant any right-of-way or easement across the land of another.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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. 75-4033G
As Modified by Transfer No. 86483

In accordance with the approval of Transfer No. 86483, Water Right No. 75-4033G is now described as follows:

Right Holder: VICKI L PENCE
3702 S CALEB PL
MERIDIAN, ID 83642-7068
AND
F CARL PENCE
6715 E LEWIS LN
NAMPA, ID 83686

Priority Date: 8/15/1955

Source: SALMON RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From 04/01 **To** 10/31

Diversion Rate
0.030 cfs
0.030 cfs

LOCATION OF POINT(S) OF DIVERSION

SALMON RIVER L5 (SESE) Sec 35 Twp 20N Rge 21E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							0.2	1.5									1.7
									L 5	L 4									

POU Total Acres: 1.7

CONDITIONS OF APPROVAL

1. This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Transfer No. 86483

SCANNED
DEC 21 2022

WATER RIGHT NO. 75-15056

As Modified by Transfer No. 86483

In accordance with the approval of Transfer No. 86483, Water Right No. 75-15056 is now described as follows:

Right Holder: BRADY DOWDING AND
HEIDI DOWDING
2455 DIANE LN
POCATELLO, ID 83201-1906

Priority Date: 8/15/1955

Source: SALMON RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

to 10/31

To

Diversion Rate

0.110 cfs

0.110 cfs

LOCATION OF POINT(S) OF DIVERSION

SALMON RIVER

SWNW

Sec 35 Twp 20N Rge 21E LEMHI County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							6.8	0.3									7.1
									L 5	L 4									

Right Acre Limit: 5.2

POU Total Acres: 7.1

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 5.2 acres within the authorized place of use in a single irrigation season.
2. Rights 75-2149G and 75-15056 when combined shall not exceed the irrigation of 7.1 acres.
3. 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. 170.
4. 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).
5. Point of diversion is located within Lot 10, Ponderosa Estates Subdivision.

Transfer No. 86483

SCANNED

DEC 21 2022

WATER RIGHT NO. 75-15056
As Modified by Transfer No. 86483

CONDITIONS OF APPROVAL

6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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.

Attachment to Transfer Approval 86483

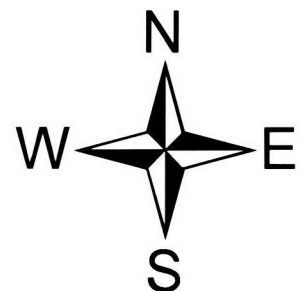
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 75 150 300 Feet



SCANNED

Date: 12/21/2022

DEC 21 2022

RECEIVED

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUN 21 2022

APPLICATION FOR TRANSFER OF WATER RIGHT Exchange
PART 1

Department of Water Resources
Eastern Region

Name of Applicant(s) Heidi & Brady Dowding Phone 208-244-1292
Mailing address 2455 Diane Ln Pocatello, ID 83201 Email heidi@idortho.com

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

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

☒ No Representative

Name of Representative _____ Phone _____
Mailing address _____ Email _____

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

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

Heidi Dowding
Signature of Applicant or Authorized Representative

HEIDI Dowding
Print Name and Title if applicable

6/10/22
Date

Brady Dowding
Signature of Applicant or Authorized Representative

Brady Dowding
Print Name and Title if applicable

6/10/2022
Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other Ownership

2. Is this a transfer for changes pursuant to Idaho Code §42-221.O.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part1A.3**.

The shared ditch adjacent to our property is no longer functioning.

We propose to change our pod to a pump on the Salmon River near our property.

The pou for water rights 75-4033G and 75-2149G will be combined on Lot B.

SCANNED
86483 2022

86483

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 30 2022

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

Department of Water Resources
Eastern Region

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

1.	<u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
☐ All or ☐ Part					
☐	75-14566	0.05 cfs	Irrigation	04/01 to 10/31	Salmon to Snake
☐	75-14568	0.05 cfs	Irrigation	04/01 to 10/31	Lake Creek to Salmon
☐	75-2149G	0.22 cfs	Irrigation	04/01 to 10/31	Lake Creek to Salmon
☐	75-4033G	0.14 cfs	Irrigation	04/01 to 10/31	Salmon to Snake
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

AMENDED

Total authorized under rights 0.46 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.46 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
Yes			SW	NW	36	20N	21E	Lemhi	Salmon River	

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

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	21E	36							6.8	0.3									7.1
									L5	L4									
Total Acres (for irrigation use)																			7.1



IDAHO DEPARTMENT OF
WATER RESOURCES

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

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

Governor Brad Little

Director Gary Spackman

December 21, 2022

BRADY DOWDING
HEIDI DOWDING
2455 DIANE LN
POCATELLO ID 83201-1906

Re: Transfer No: 86483
Water Right No(s): 75-2149G , 75-4033G , 75-14566, 75-14568

Transfer Approval Notice

Dear Water Right Holder:

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

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

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

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

SCANNED
DEC 21 2022

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

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

Sincerely,

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

Christina Henman
Administrative Assistant

Enclosure
CC:

VICKI L PENCE
3702 S CALEB PL
MERIDIAN ID 83642-7068

F CARL PENCE
6715 E LEWIS LN
NAMPA ID 83686

SCANNED
DEC 21 2022

CERTIFICATE OF SERVICE

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

Re: Transfer No.: 86483

Water Right No(s): 75-2149G , 75-4033G , 75-14566, 75-14568

**BRADY DOWDING
HEIDI DOWDING
2455 DIANE LN
POCATELLO ID 83201-1906**

**VICKI L PENCE
3702 S CALEB PL
MERIDIAN ID 83642-7068**

**F CARL PENCE
6715 E LEWIS LN
NAMPA ID 83686**



**Christina Henman
Administrative Assistant**

SCANNED

DEC 21 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.

MEMORANDUM

Date: December 12, 2022
To: Transfer 86483
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion for water rights 75-2149G, 75-14566, 75-14568 and a split portion of 75-4033G. Proposed point of diversion is a pump station on the Salmon River. Two of the rights, 75-14568 and 75-2149G, list the authorized source as Lake Creek. These rights will also be diverted from the Salmon River pump. Water from Lake Creek will flow into the Salmon River upstream of the pump station. This transfer also proposes to combine the place of use for water right 75-2149G and the split portion of right 75-4033G. A 1.7-acre portion of water right 75-4033G overlaps a neighboring property and will be split from the right.

Authority to File:

The applicant provided documentation that shows direct chain of title from the current owner. Lemhi County tax lot data shows the applicant as the owner of the current and proposed place of use. The applicant has a verbal agreement with their neighbor Gary Leuzinger allowing them to share a common point of diversion on his property. Mr. Leuzinger states his intent to share the pump station in Transfer Application 86091. The applicant has authority to make the change.

Water Right Validity:

The rights included in this transfer were decreed in the SRBA in 2008. Review of aerial photography does not show evidence that the current place of use has been irrigated since 2008. The applicant provided statements describing their use of the water rights since 2008. Applicants assert that they and the previous owner have irrigated the entire place of use consistently every year, for at least part of the irrigation season. There are no water district records for this area. The statements from the applicants present some doubt about non-use. IDWR does not have clear and convincing evidence of forfeiture at this time.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. Within this transfer 7.1 acres are being rearranged, and the point of diversion is moving downstream. The quantity authorized to be diverted will not change as a result of the transfer. The water master was notified and did not provide a comment. The application was advertised without protest.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor volume nor irrigated acreage will increase as a result of the transfer. Enlargement would be an issue if the Lake Creek rights were unavailable, therefore we have conditioned these rights to protect against enlargement. There are no overlapping rights on the property. The overlap between water rights 75-2149G and 75-4033G is ambiguous. The proposal to combine these rights over 7.1 acres appears to be a consolidation of the rights.

Local Public interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

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

SCANNED
DEC 21 2022