

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 86980**

This is to certify that: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE, ID 83707

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>
75-10983	WR/DECREED	10/9/1964	0.800 cfs	N/A	N/A	N/A	SALMON RIVER

Purpose of Transfer (Changes Proposed)

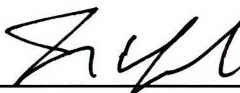
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
75-10983	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
75-10983	75-10983	0.800 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.800 cfs	N/A	N/A	N/A		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 4th day of November, 2022.



Regional Manager

Transfer No. 86980

SCANNED
NOV 04 2022

WATER RIGHT NO. 75-10983

As Modified by Transfer No. 86980

In accordance with the approval of Transfer No. 86980, Water Right No. 75-10983 is now described as follows:

Right Holder: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE, ID 83707

Priority Date: 10/9/1964

Source: SALMON RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
FISH PROPAGATION

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

Diversion Rate
0.800 cfs
0.800 cfs

LOCATION OF POINT(S) OF DIVERSION

SALMON RIVER SESE Sec 12 Twp 20N Rge 21E LEMHI County

PLACE OF USE: FISH PROPAGATION

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	22E	7		X															

CONDITIONS OF APPROVAL

1. Fish propagation use is for fish protection through the installation of a deflection screen and a bypass pipe to provide passage for fish back to the Salmon River.
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. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. Use of water under this right shall be non-consumptive.
5. Water is delivered through Fife Ditch.
6. This right does not grant any right-of-way or easement across the land of another.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 86980

SCANNED
NOV 04 2022

WATER RIGHT NO. 75-10983
As Modified by Transfer No. 86980

CONDITIONS OF APPROVAL

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



Attachment to Transfer Approval 86980

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.

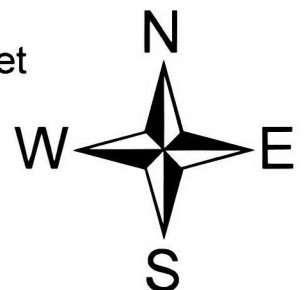


The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

Legend

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

0 375 750 1,500 Feet



SCANNED
Date: 11/4/2022
NOV 04 2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

SEP 19 2022

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION
Department of Water Resources
Eastern Region

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)** State of Idaho, Idaho Department of Fish & Game Commission Phone 208-334-3700
 2. **MAILING ADDRESS** P.O.Box 25 City Boise
 State Idaho Zip 83707 Email mike.demick@idfg.idaho.gov (Contact)

- ☐ 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)** 75-10983

- ☒ 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 0.80 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

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 #
N			SE	SE	12	20N	21E	Lemhi	Salmon River	Fife Ditch (S-15)

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:

Fife ditch diverts from the Salmon River. The area was recently incorporated into Water District 170. Fish propagation is non-consumptive and is not required to be measured at this time.

- b. Who owns the property at the point(s) of diversion? Gene Ray Gattung

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Water right has been diverted through Fife Ditch since 1964(see Att.6b).IDFG holds recorded easement (# 90996)

- 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]
Signature of applicant or authorized agent

Tom Coret Regional Supervisor 9/13/00
Print name and title if applicable Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

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 _____ Date _____

Fee paid \$ 50.00 Date interagency Received by CH Receipt # 8000001

Preliminary review by _____ Date _____ 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)

ATTACHMENT 6b

An error in the POD location for Idaho Fish and Game's fish bypass water right 75-10983 on the Fife Ditch was discovered recently.

The original WR application erroneously listed the POD location at the **end** of the return channel back to the Salmon River (Lot 6, NW of NW, Sect. 7, T20n, R22E). The correct POD location is at the **head** of the Fife Ditch (SE of SE, Sect. 12, T20N, R21E), consistent with all the other rights in the ditch.

This water right has been diverted through the Fife Ditch since 1964, and the physical location of the POD has not changed.

86980

SCANNED
OCT 05 2022

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/9/2022

Water Right 75-10983

Owner Type
Current Owner

Name and Address
STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 83720
BOISE, ID 83720-0010

Priority Date: 10/9/1964

Basis: Decreed

Status: Active

Source
SALMON RIVER

Tributary
SNAKE RIVER

Beneficial Use
FISH PROPAGATION

From
04/01

To
10/31

Diversion Rate
0.800 CFS

Volume

Total Diversion 0.800 CFS

Source and Point(s) of Diversion:

SALMON RIVER

L6(NWNE)

Sec. 7, Twp 20N, Rge 22E, LEMHI County

Place Of Use:

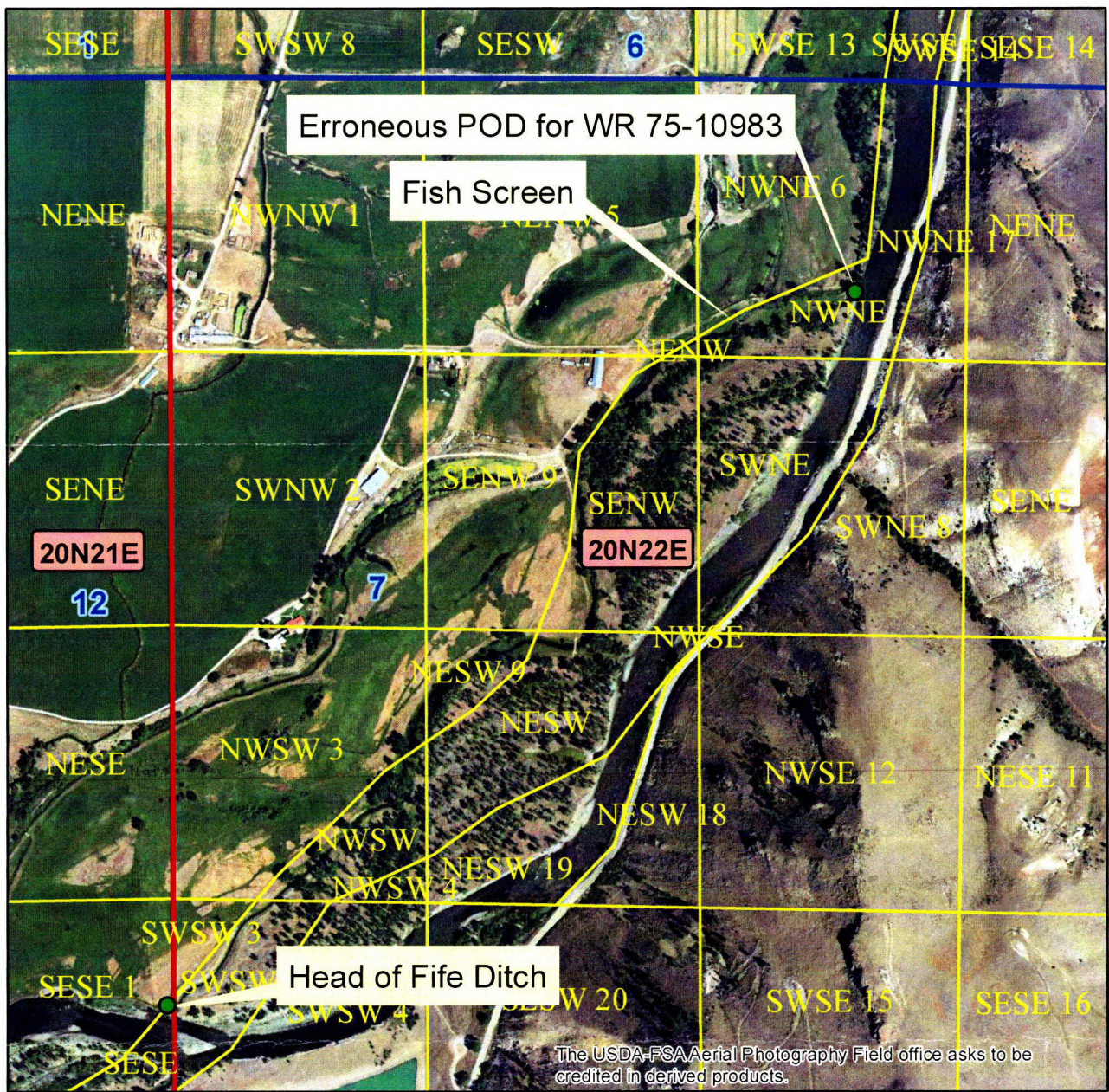
FISH PROPAGATION within LEMHI County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
20N	22E	7		X L6															

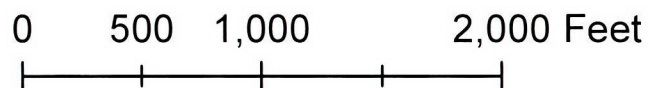
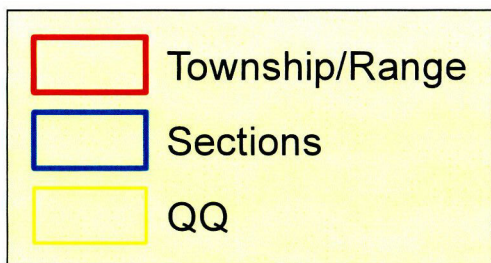
Conditions of Approval:

1. 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.

Actual Point of Diversion for Water Right 75-10983



2013 Imagery



SCANNED
OCT 05 2022

86980



IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

Brad Little / Governor
Ed Schriever / Director

RECEIVED

September 13, 2022

SEP 19 2022

Department of Water Resources
Eastern Region

Idaho Department of Water Resources
900 North Skyline
Idaho Falls, Idaho 83402

Dear IDWR:

Enclosed please find one (1) "Application for Transfer of Water Right – Point of Diversion" for water right 75-10983. Please initiate the Interagency Billing Process for the \$50 transfer fee.

When processing this application, use PCA 35790 and code CINX. Please send the billing documents to IDFG Headquarters Office, Attention: Tom Bassista, P.O. Box 25, Boise, ID 83707, or by email at Tom.Bassista@idfg.idaho.gov.

Please send a copy of the approved transfer to IDFG, Attn: Mike Demick, 97 Hwy 93 N, Salmon, ID 83467. Please call me if you have any questions at 208-756-6022.

Sincerely,

Mike Demick
Easement Specialist

Enc: one (1) "Application for Transfer of Water Right – Point of Diversion"

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-334-3700 • Fax: 208-334-2114 • Idaho Relay (TDD) Service: 1-800-377-3529 • <https://idfg.idaho.gov>

SCANNED

OCT 05 2022

86980



Governor Brad Little

Director Gary Spackman

November 04, 2022

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

Re: Transfer No: 86980
Water Right No(s): 75-10983

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
NOV 04 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,



Christina Henman
Administrative Assistant

Enclosure

CC:

SCANNED

NOV 04 2022

CERTIFICATE OF SERVICE

I hereby certify that on November 04, 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.: 86980

Water Right No(s): 75-10983

**STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707**



**Christina Henman
Administrative Assistant**

SCANNED
NOV 04 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: October 17, 2022
To: Transfer 86980
From: Thomas Lafortune
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use and point of diversion for right 75-10983. It was discovered that the point of diversion on the original application for permit for this fish screen was mistakenly listed as the end of the return channel back to the Salmon River. The point of diversion should be the head of Fife Ditch, where the right has been diverted since 1964. The legal description for the place of use was erroneously listed as Lot 6 (NWNE). The correct place of use is just NWNE, without the lot designation. The place of use update is simply a correction of the legal description based on refined map layers. There is no physical change to the point of diversion or place of use.

Authority to File:

The applicant is the current owner of the right according to department records. The application was signed by Tom Curet, Regional Supervisor.

Water Right Validity:

The right was decreed in the Snake River Basin Adjudication in 2008. The fish screen is actively managed by IDFG's Fish Screen Program. Forfeiture is not an issue.

Injury to Other Water Rights:

This transfer is not proposing any physical change to the water right. Injury to other water users is not a concern. The water master was asked for comment and had no concerns with this transfer.

Enlargement of Use:

There is no enlargement of use. Rate of diversion will remain the same.

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

NOV 04 2022

MEMORANDUM

Date: November 2, 2022
To: Transfer 86980
From: Thomas Lafortune
Re: Legal Notice Not Required

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

SCANNED

NOV 04 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, October 5, 2022 4:35 PM
To: Graybill, David
Subject: Application for Transfer No. 86980
Attachments: tmp31B3.docx

Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 14 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 14 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

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

Lafortune, Thomas

From: Demick, Mike
Sent: Monday, October 3, 2022 8:00 AM
To: Lafortune, Thomas
Subject: RE: Water Right 75-10983 Transfer

Tom. Yes, and thank you. It's very close to the line, but looking at it in Google Earth and comparing to the map, it is in NWNE.

Mike

From: Lafortune, Thomas <Thomas.Lafortune@idwr.idaho.gov>
Sent: Thursday, September 29, 2022 3:43 PM
To: Demick, Mike <mike.demick@idfg.idaho.gov>
Subject: Water Right 75-10983 Transfer

Hi Mike,

I am currently working on the transfer application you filed for Water Right 75-10983.

Looking at the Place of Use on a map, it is actually located in the NWNE of that section, not NWNE Lot 6 as it was decreed. Is it OK if I remove "Lot 6" from the legal description?

Thomas Lafortune
Water Resources Agent
Idaho Department of Water Resources
Phone: (208) 497-3779