

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 85893

This is to certify that: FRAN M MCVAY
RICHARD L HUSSEY
275 IRON CREEK RD
SALMON, ID 83467-5121

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
75-11615	WR/DECREED	5/1/1927	0.040 cfs	N/A	N/A	N/A	SPRING

Purpose of Transfer (Changes Proposed)

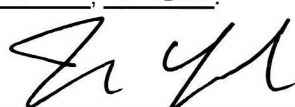
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
75-11615	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
75-11615	75-11615	0.040 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.040 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 29th day of September, 2022.



Regional Manager

Transfer No. 85893

SCANNED
OCT 03 2022

WATER RIGHT NO. 75-11615

As Modified by Transfer No. 85893

In accordance with the approval of Transfer No. 85893, Water Right No. 75-11615 is now described as follows:

Right Holder: RICHARD L HUSSEY
275 IRON CREEK RD
SALMON, ID 83467-5121

Priority Date: 5/1/1927

Source: SPRING

Tributary: SINKS

BENEFICIAL USE

DOMESTIC

From

1/01

To

to 12/31

Diversion Rate

0.040 cfs

0.040 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING

SWNENW

Sec 8 Twp 18N Rge 21E LEMHI County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18N	21E	8							X										
									L 2										0

CONDITIONS OF APPROVAL

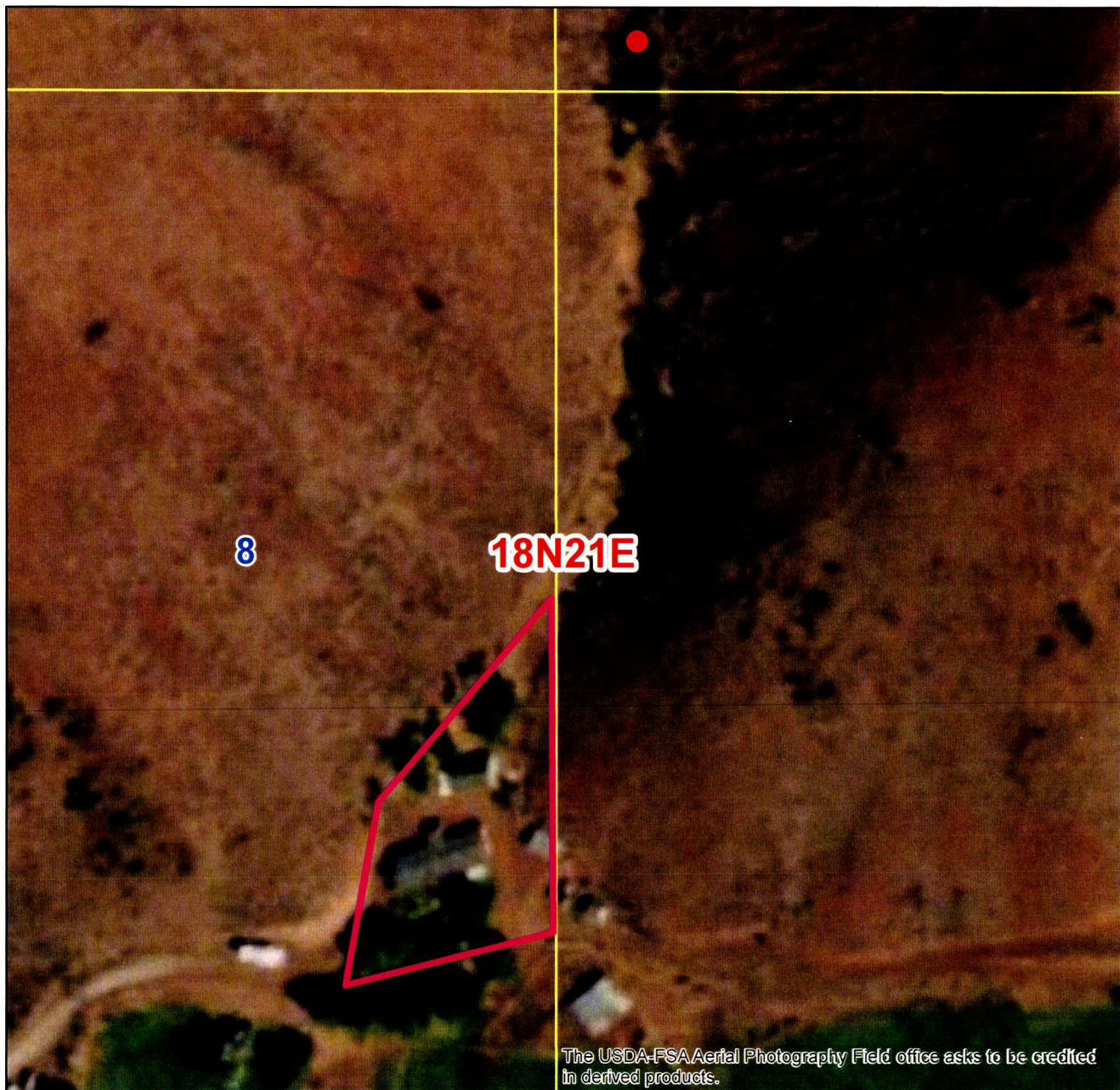
- Domestic use is for 1 home.
- The quantity of water decreed for this water right is not a determination of historical beneficial use.
- The quantity of water under this right shall not exceed 13,000 gallons per day.
- The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
- Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- 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. 85893

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Attachment to Transfer Approval 85893

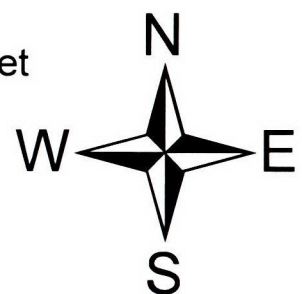
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

0 75 150 300 Feet



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Date: 9/29/2022

OCT 03 2022

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Nov-08-2000



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

September 29, 2022

RICHARD L HUSSEY
FRAN M MCVAY
275 IRON CREEK RD
SALMON ID 83467-5121

Re: Transfer No: 85893
Water Right No(s): 75-11615

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.

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OCT 03 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 be 'CH' or 'CHenman'.

Christina Henman
Administrative Assistant

Enclosure
CC:

SCANNED
OCT 03 2022

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 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.: 85893

Water Right No(s): 75-11615

**RICHARD L HUSSEY
FRAN M MCVAY
275 IRON CREEK RD
SALMON ID 83467-5121**



**Christina Henman
Administrative Assistant**

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OCT 03 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: September 28, 2022
To: Transfer 85893
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to correct the legal description for the point of diversion and place of use of water right 75-11615. The spring box has always been located in the SWNENW of Section 8 and the home served by the spring has always been located in Lot 2 (SWNW) of Section 8, both in T18N, R21E.

IDWR's GIS database identifies all of the SWNW of Section 8 as Lot 1. However, survey plats in the BLM's general land office records identify the private parcel in the SWNW as Lot 2. The POU of water right 75-11615 will be updated to Lot 2, in accordance with BLM land records.

Authority to File:

Richard Hussey has the authority to sign. Hussey owns the property at the proposed POU. Water right 75-11615 is currently in the name of Eugene Hussey. Application was also signed by Fran McVay who owns the property at the existing place of use, signifying that she supports the transfer and the ownership change. Ownership of right 75-11615 will be changed from Eugene Hussey to Richard Hussey upon approval of this transfer. Application included a deed from Eugene Hussey to Fran McVay for the existing place of use and a homestead patent for the proposed place of use in the name of Richard Hussey.

Water Right Validity:

Water right 75-11615 was decreed on 11/10/2000. IDWR's satellite imagery shows a home within the proposed POU boundary. No evidence suggests failure to achieve beneficial use over the past five years.

Injury to Other Water Rights & Enlargement of Use:

Because the transfer will not result in any physical changes, only updates to correct the legal description of the rights, there are no injury or enlargement concerns. No water district in this area. Because the corrected point of diversion is located on BLM ground, the application was advertised and no protest filed.

Local Public interest:

No evidence suggests this transfer is in conflict with the local public interest

Beneficial Use/Conservation of Water Resources:

Changes proposed in this transfer do not oppose conservation of water resources.

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

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OCT 03 2022

NOTICE OF PROPOSED CHANGE OF
WATER RIGHT TRANSFER NO. 85893

RICHARD L HUSSEY and FRAN M MCVAY, 275 IRON CREEK RD, SALMON, ID 83467-5121 has filed Application No. 85893 for changes to the following water rights within LEMHI County(s): Right No(s). 75-11615; 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: correct point of diversion and place of use to reflect actual location of spring box and house. Proposed point of diversion is in SWNW Sec 8 T18N R21E for 0.04 cfs from a spring tributary to sinks. Proposed place of use is in Lot 2 (SWNW) Sec 8 T18N R21E for domestic use at one home.

For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 9/19/2022. The protestant must also send a copy of the protest to the applicant.

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 75-15051.

FRAN M MCVAY, 275 IRON CREEK RD, SALMON, ID 83467-512 Point of Diversion L1(SW SW NW) S8 T18N R21E LEMHI County.

Source SPRING Tributary IRON CREEK
Use: IRRIGATION 04/01 to 10/31

0.09 CFS

Total: Diversion: 0.09 CFS

Date Filed: 07-22-2022

Place Of Use: IRRIGATION

T18N R21E S8

SENV

Total Acres: 3

This application proposes the diversion and use of water from a spring tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after

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SEP 12 2022

Department of Water Resources
Eastern Region

Affidavit of Publication

STATE OF IDAHO }
County of Lemhi } ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the **NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 85893** a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **09-01-2022** and ending with the issue dated **09-08-2022**.

STATE OF IDAHO }
County of Lemhi } ss.

On this **8th day of September** in this year of 2022 before me, A Notary Public, personally appeared RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Residing At Salmon, Idaho

Notary Public for Idaho

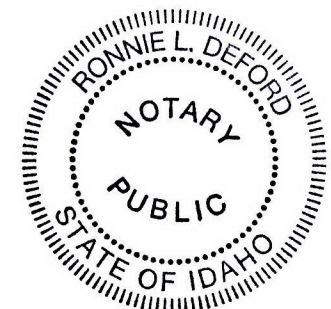
Commission expires 04-10-2023

Publication Fee \$399.60

OK CH
623100

RD

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SEP 27 2022



the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-15052

RICHARD L HUSSEY, 275 IRON CREEK RD, SALMON, ID 83467-5121

Point of Diversion L1(SWSWNW) S8 T18N R21E LEMHI County

Source SPRING Tributary IRON CREEK

Use: IRRIGATION

04/01 to 10/31

0.06 CFS

Total Diversion:

0.06 CFS

Date Filed: 07-22-2022

Place Of Use: IRRIGATION

T18N R21E S8

L2(SWNW)

Total Acres: 2

This application proposes the diversion and use of water from a spring tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-15053

MICHAEL MC CLURE, 3056 HIGHWAY 93 N, GIBBONSVILLE, ID 83463-8502

Point of Diversion NWNW S1 T25N R21E LEMHI County

Source SALMON RIVER Tributary SALMON RIVER

Use: IRRIGATION

04/01 to 10/31

0.04 CFS

Use: FIRE PROTECTION

01/01 to 12/31

0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 08-24-2022

Place Of Use: FIRE PROTECTION, IRRIGATION

T25N R21E S1 NWNW

Total Acres: 1.8

This application proposes the diversion and use of water from North Fork Salmon River tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

75-15055

TERRY A & CYNTHIA PETERSEN, PO BOX 143, CARMEN, ID 83462-0143
Point of Diversion NENW S10 T23N R22E LEMHI County

Source TOWER CREEK Tributary SALMON RIVER

Use: IRRIGATION

04/01 to 10/31

0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 08-01-2022

Place Of Use: IRRIGATION

T23N R22E S10 NENW

Total Acres: 2

This application proposes the diversion and use of water from East Fork Tower Creek, tributary of the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow.

The water use proposed in this application will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above. Permits will be subject to all prior water rights.

For additional information concerning the property location, contact the Eastern office at (208)525-7161; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>.

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, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 9/19/2022. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

09-01-2tc

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SEP 27 2022

Henman, Christina

From: Henman, Christina
Sent: Wednesday, August 24, 2022 2:37 PM
To: Graybill, David
Subject: Application for Permit of 75-15051, 75-15052, 75-15055, Transfer 85893
Attachments: tmpAD63.docx; tmp3655.docx; tmp8E26.docx; tmpDA43.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 21 days of the date of this letter.

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

IDWR can finish reviewing an 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 12 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.