

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88649**

This is to certify that: **LITTLE BUTTE IRRIGATION CO LTD**
PO BOX 580
BLACKFOOT, ID 83221

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>
27-41	WR/DECREED	4/5/1886	2.400 cfs	N/A	120.0	585.0	BLACKFOOT RIVER

Associated Water Rights Also Included in the Transfer Approval (Conditions Updated)

<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>
27-38	WR/DECREED	4/5/1886	7.040 cfs	N/A		N/A	BLACKFOOT RIVER
27-39	WR/DECREED	4/5/1886	2.640 cfs	N/A	142.5	N/A	BLACKFOOT RIVER
27-40	WR/DECREED	4/5/1886	2.000 cfs	N/A	120.0	N/A	BLACKFOOT RIVER
27-10878	WR/DECREED	6/1/1885	0.400 cfs	N/A		N/A	BLACKFOOT 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>
27-41	NO	NO	YES	NO	YES	YES

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>
27-41	27-41	2.400 cfs	N/A	109.0	574.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		2.400 cfs	N/A	109.0	574.0		N/A	N/A	N/A	N/A

Transfer No. 88649

**Support Data
In File # 27-41**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 88649

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 26th day of February, 2024.



Regional Manager



WATER RIGHT NO. 27-41
As Modified by Transfer No. 88649

In accordance with the approval of Transfer No. 88649, Water Right No. 27-41 is now described as follows:

Right Holder: LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT, ID 83221

Priority Date: 4/5/1886

Source: BLACKFOOT RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	2.180 cfs	
DIVERSION TO STORAGE	04/01	to 10/31	0.220 cfs	
RECREATION STORAGE	01/01	to 12/31		30.4 af
			2.400 cfs	

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER L1 (SESE) Sec 12 Twp 03S Rge 35E BINGHAM County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 109 acres within the authorized place of use in a single irrigation season.
2. Rights 27-38, 27-39, 27-40, 27-41, and 27-10878 when combined shall not exceed the irrigation of 574 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. 27.
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.
5. Place of use is within the area served by Little Butte Irrigation Company.
6. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
7. Water is delivered through Little Butte Canal.

Transfer No. 88649

Support Data
In File # 27-41

WATER RIGHT NO. 27-41
As Modified by Transfer No. 88649

CONDITIONS OF APPROVAL

8. This right does not provide for the initial fill of the recreation pond described in this right. The right holder must acquire a separate right or authorization for the initial fill and any subsequent refill of the pond.
9. Use of this right is combined with water from Eastern Idaho Water Company.
10. The pond established by the storage of water under this right shall not exceed a total capacity of 50 acre-feet or a total surface area of 9 acres.
11. This water right is entitled to the protections of paragraph x.d of water right 27-11375.
12. This right does not grant any right-of-way or easement across the land of another.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
15. 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. 27-38
As Modified by Transfer No. 88649

In accordance with the approval of Transfer No. 88649, Water Right No. 27-38 is now described as follows:

Right Holder: LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT, ID 83221

Priority Date: 4/5/1886

Source: BLACKFOOT RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
7.040 cfs
7.040 cfs

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER L1 (SESE) Sec 12 Twp 03S Rge 35E BINGHAM County

CONDITIONS OF APPROVAL

1. The rights listed below are limited to the irrigation of a combined total of 574 acres in a single irrigation season. Combined Right Nos.: 27-38, 27-39, 27-40, 27-41, and 27-10878.
2. Use of this right is combined with water from Eastern Idaho Water Company.
3. Water is delivered through Little Butte Canal.
4. Place of use is within the area served by Little Butte Irrigation Company.
5. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
6. This water right is entitled to the protections of paragraph x.d of water right 27-11375.
7. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
8. 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.

WATER RIGHT NO. 27-39
As Modified by Transfer No. 88649

In accordance with the approval of Transfer No. 88649, Water Right No. 27-39 is now described as follows:

Right Holder: LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT, ID 83221

Priority Date: 4/5/1886

Source: BLACKFOOT RIVER

Tributary: SNAKE RIVER

BENEFICIAL USE
IRRIGATION

From
04/01

To
to 10/31

Diversion Rate
2.640 cfs
2.640 cfs

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER

L1 (SESE)

Sec 12 Twp 03S Rge 35E BINGHAM County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 142.5 acres within the place of use described above in a single irrigation season.
2. The rights listed below are limited to the irrigation of a combined total of 574 acres in a single irrigation season. Combined Right Nos.: 27-38, 27-39, 27-40, 27-41, and 27-10878.
3. Water is delivered through Little Butte Canal.
4. Place of use is within the area served by Little Butte Irrigation Company.
5. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
6. Use of this right is combined with water from Eastern Idaho Water Company.
7. This water right is entitled to the protections of paragraph x.d of water right 27-11375.
8. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
9. 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. 88649

WATER RIGHT NO. 27-40
As Modified by Transfer No. 88649

In accordance with the approval of Transfer No. 88649, Water Right No. 27-40 is now described as follows:

Right Holder: LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT, ID 83221

Priority Date: 4/5/1886

Source: BLACKFOOT RIVER **Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	2.000 cfs
			2.000 cfs

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER L1 (SESE) Sec 12 Twp 03S Rge 35E BINGHAM County

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.
2. The rights listed below are limited to the irrigation of a combined total of 574 acres in a single irrigation season. Combined Right Nos.: 27-38, 27-39, 27-40, 27-41, and 27-10878.
3. Water is delivered through Little Butte Canal.
4. Place of use is within the area served by Little Butte Irrigation Company.
5. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
6. Use of this right is combined with water from Eastern Idaho Water Company.
7. This water right is entitled to the protections of paragraph x.d of water right 27-11375.
8. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
9. 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. 88649

WATER RIGHT NO. 27-10878
As Modified by Transfer No. 88649

In accordance with the approval of Transfer No. 88649, Water Right No. 27-10878 is now described as follows:

Right Holder: LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT, ID 83221

Priority Date: 6/1/1885

Source: BLACKFOOT RIVER

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	04/01	to 10/31	0.400 cfs
			0.400 cfs

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER L1 (SESE) Sec 12 Twp 03S Rge 35E BINGHAM County

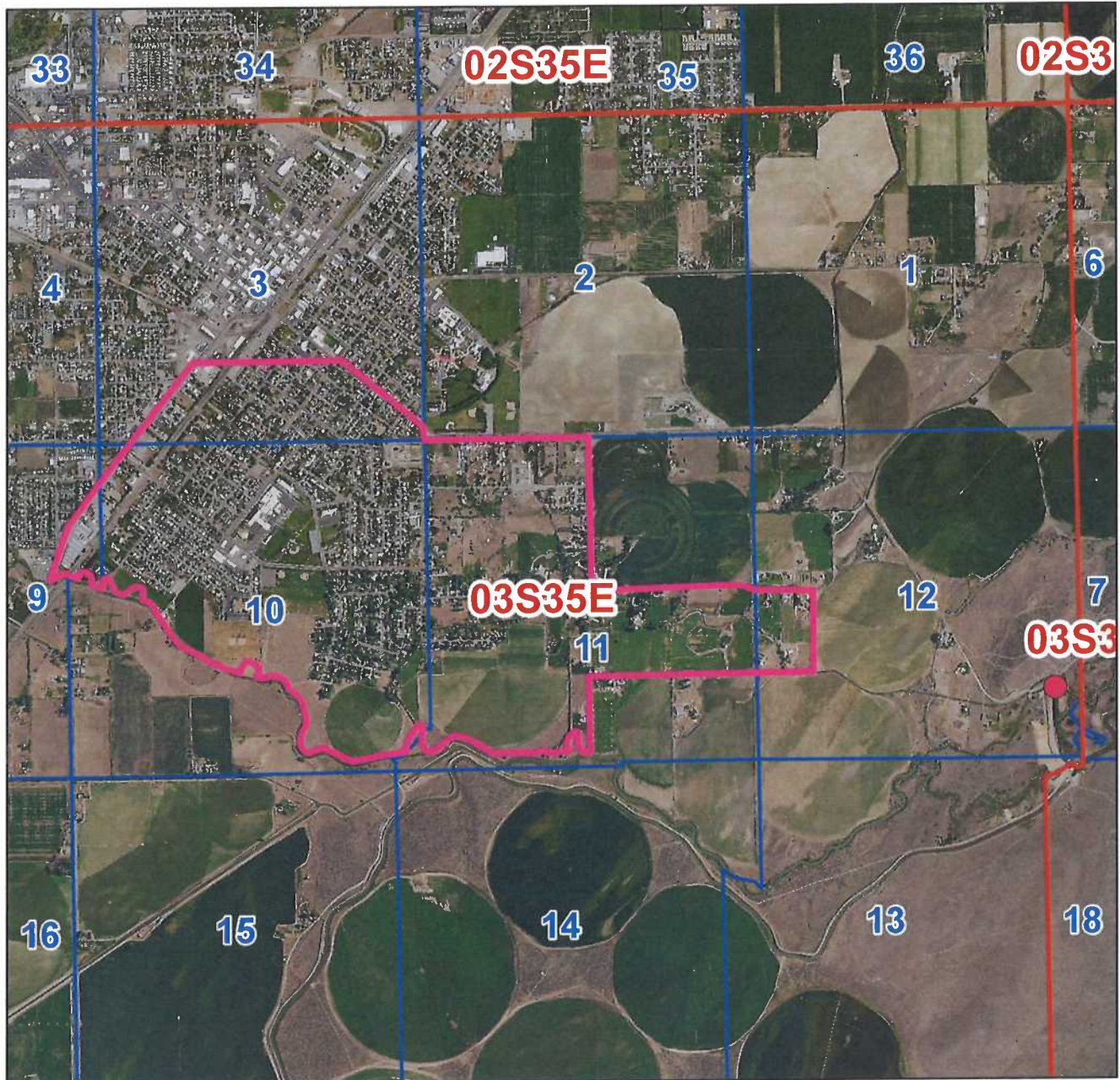
CONDITIONS OF APPROVAL

1. The rights listed below are limited to the irrigation of a combined total of 574 acres in a single irrigation season. Combined Right Nos.: 27-38, 27-39, 27-40, 27-41, and 27-10878.
2. Water is delivered through Little Butte Canal.
3. Place of use is within the area served by Little Butte Irrigation Company.
4. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2) (h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
5. Use of this right is combined with water from Eastern Idaho Water Company.
6. This water right is entitled to the protections of paragraph x.d of water right 27-11375.
7. This right is a split from former right 27-4.
8. Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
9. 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. 88649

Attachment to Transfer Approval 88649

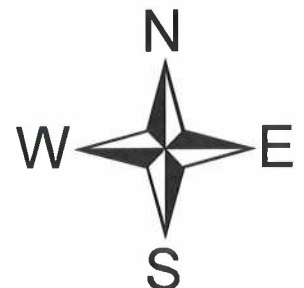
This map depicts the place of use boundary at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

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

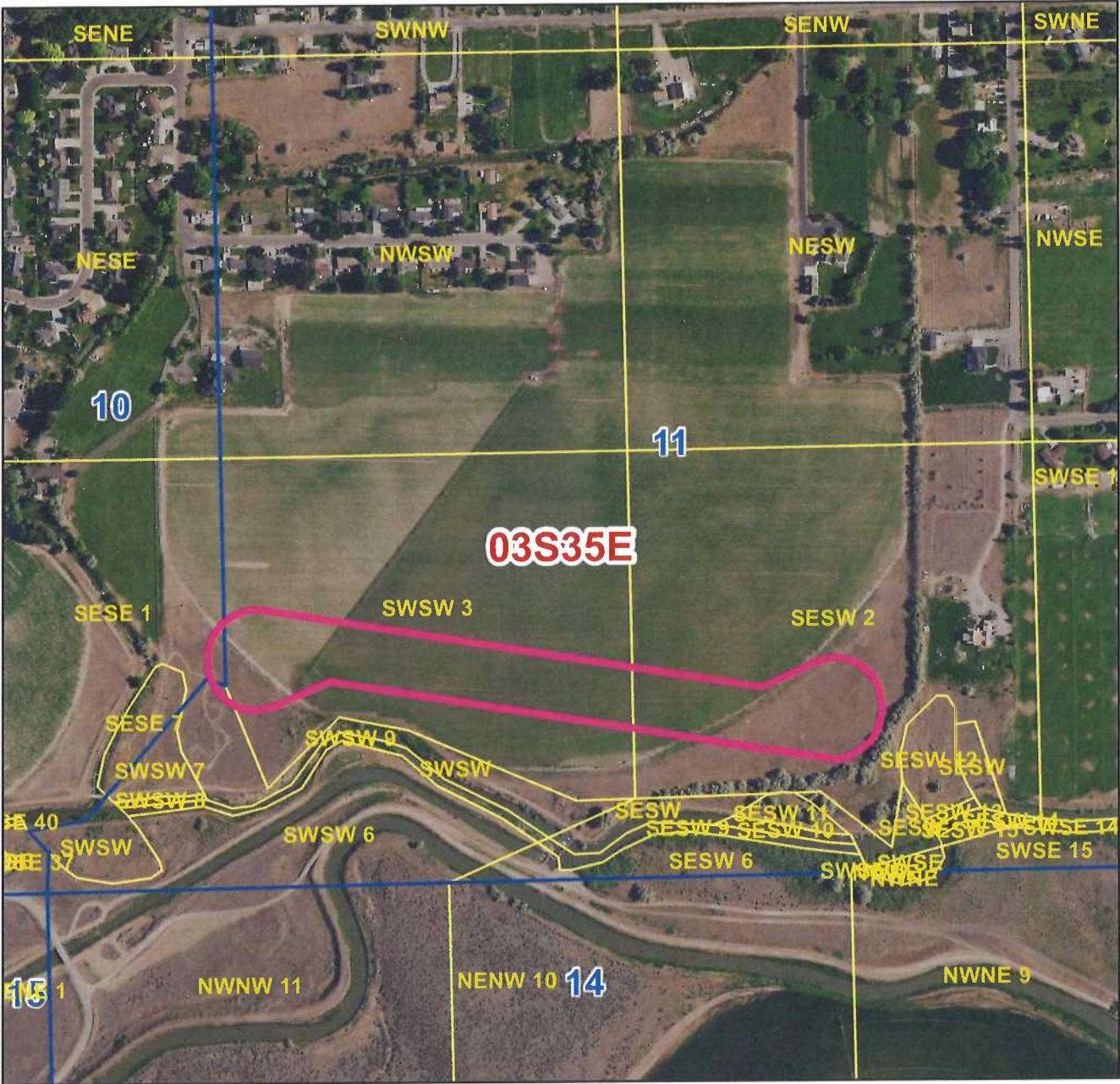
0 0.25 0.5 1 Miles



Date: 2/26/2024

Attachment to Transfer Approval 88649

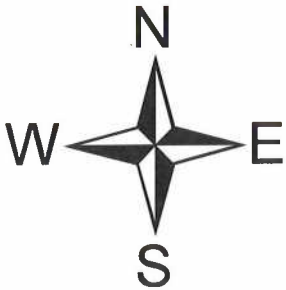
This map depicts the place of use boundary for recreation storage at the time of this transfer approval and is attached to the approval document solely for illustrative purposes.



Legend

- WR POU
- Township/Range
- Sections
- QQ

0 0.05 0.1 0.2 Miles



Date: 2/27/2024



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 Mathew Weaver

February 26, 2024

LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT ID 83221

Re: Transfer No: 88649
Water Right No(s): 27-38, 27-39, 27-40, 27-41, 27-10878

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.

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:

ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552

JERRY R RIGBY
RIGBY ANDRUS & RIGBY LAW PLLC
PO BOX 250
REXBURG ID 83440-0250

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2024 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

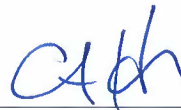
Re: Transfer No.: 88649

Water Right No(s): 27-38, 27-39, 27-40, 27-41, 27-10878

**LITTLE BUTTE IRRIGATION CO LTD
PO BOX 580
BLACKFOOT ID 83221**

**ROCKY MOUNTAIN ENVIRONMENTAL ASSOC INC
482 CONSTITUTION WAY STE 303
IDAHO FALLS ID 83402-3552**

**JERRY R RIGBY
RIGBY ANDRUS & RIGBY LAW PLLC
PO BOX 250
REXBURG ID 83440-0250**



**Christina Henman
Administrative Assistant**

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.