STATE OF IDAHO
# DEPARTMENT OF WATER RESOURCES

## TRANSFER OF WATER RIGHT
## TRANSFER NO. 89127

This is to certify that: SCOTT HAYES
9417 N WINTERWOOD LN
BOISE, ID 83714

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 |
|---|---|---|---|---|---|---|---|
| 73-116 | WR/DECREED | 11/29/1907 | 1.400 cfs | N/A | N/A | 97.2 | PATTERSON CREEK |
| 73-12282 | WR/DECREED | 2/7/1973 | 0.840 cfs | N/A | 70.0 | 217.0 | GROUND WATER |
| 73-78 | WR/DECREED | 4/30/1904 | 2.100 cfs | N/A | N/A | 97.2 | PAHSIMEROI RIVER, PATTERSON CREEK |

### Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 73-116 | NO | NO | YES | NO | NO | NO |
| 73-12282 | NO | NO | YES | YES | NO | NO |
| 73-78 | NO | NO | 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 |
|---|---|---|---|---|---|---|---|---|---|---|
| 73-116 | 73-116 | 1.400 cfs | N/A | N/A | 97.2 | N/A | N/A | N/A | N/A | N/A |
| 73-12282 | 73-12282 | 0.840 cfs | N/A | 70.0 | 97.2 | N/A | N/A | N/A | N/A | N/A |
| 73-78 | 73-78 | 2.100 cfs | N/A | N/A | 97.2 | N/A | N/A | N/A | N/A | N/A |
| **COMBINED TOTALS** | | **4.340 cfs** | **N/A** | **97.2** | **97.2** | | **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 19th day of September, 2024.

Regional Manager

Support Data
In File # 73-78

Transfer No. 89127

# WATER RIGHT NO. 73-78

## As Modified by Transfer No. 89127

In accordance with the approval of Transfer No. 89127, Water Right No. 73-78 is now described as follows:

**Right Holder:** SCOTT M HAYES
9417 N WINTERWOOD LN
BOISE, ID 83714

**Priority Date:** 4/30/1904

**Source:** PATTERSON CREEK **Tributary:** PAHSIMEROI RIVER
**Source:** PAHSIMEROI RIVER **Tributary:** SALMON RIVER

| BENEFICIAL USE | From | | To | Diversion Rate |
|---|---|---|---|---|
| IRRIGATION | 04/01 | to | 10/31 | 2.100 cfs |
| | | | | 2.100 cfs |

**LOCATION OF POINT(S) OF DIVERSION**

| | | | | |
|---|---|---|---|---|
| PATTERSON CREEK | NESESW | Sec 1 | Twp 14N Rge 21E | CUSTER County |
| PAHSIMEROI RIVER | NESESW | Sec 1 | Twp 14N Rge 21E | CUSTER County |

**PLACE OF USE: IRRIGATION**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 15N | 21E | 27 | | | | | | | 6 | 5 | 20 | 6 | 5 | 14 | | 0.2 | 5 | | 61.2 |
| 15N | 21E | 34 | | | | | 3.0 | 11.0 | 13.0 | 9.0 | | | | | | | | | 36.0 |

POU Total Acres: 97.2

**CONDITIONS OF APPROVAL**

1. Rights 73-78, 73-116 and 73-12282 when combined shall not exceed the irrigation of 97.2 acres.
2. Use of water under this right will 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. 73.
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. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. 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.
6. Patterson Creek is locally known as Big Spring Creek.

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# WATER RIGHT NO. 73-78

## As Modified by Transfer No. 89127

**CONDITIONS OF APPROVAL**

7. This right does not grant any right-of-way or easement across the land of another.

8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

10. Pursuant to Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

# WATER RIGHT NO. 73-116

## As Modified by Transfer No. 89127

In accordance with the approval of Transfer No. 89127, Water Right No. 73-116 is now described as follows:

**Right Holder:** SCOTT M HAYES
9417 N WINTERWOOD LN
BOISE, ID 83714

**Priority Date:** 11/29/1907

**Source:** PATTERSON CREEK **Tributary:** PAHSIMEROI RIVER

| BENEFICIAL USE | From | | To | Diversion Rate |
|---|---|---|---|---|
| IRRIGATION | 04/01 | to | 10/31 | 1.400 cfs |
| | | | | 1.400 cfs |

**LOCATION OF POINT(S) OF DIVERSION**

PATTERSON CREEK NESESW Sec 1 Twp 14N Rge 21E CUSTER County

**PLACE OF USE: IRRIGATION**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 15N | 21E | 27 | | | | | | | 6 | 5 | 20 | 6 | 5 | 14 | | 0.2 | 5 | | 61.2 |
| 15N | 21E | 34 | | | | | 3.0 | 11.0 | 13.0 | 9.0 | | | | | | | | | 36.0 |

POU Total Acres: 97.2

**CONDITIONS OF APPROVAL**

1. Rights 73-78, 73-116 and 73-12282 when combined shall not exceed the irrigation of 97.2 acres.
2. Diversion of water from the Pahsimeroi River is limited to those times water is available for diversion under this right and priority from Patterson Creek at the original point of diversion and to the amount of water that actually reaches the Pahsimeroi River.
3. Use of water under this right will 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. 73.
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. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
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.

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# WATER RIGHT NO. 73-116

## As Modified by Transfer No. 89127

**CONDITIONS OF APPROVAL**

7. Patterson Creek is locally known as Big Spring Creek.

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 Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

# WATER RIGHT NO. 73-12282

## As Modified by Transfer No. 89127

In accordance with the approval of Transfer No. 89127, Water Right No. 73-12282 is now described as follows:

**Right Holder:** SCOTT M HAYES
9417 N WINTERWOOD LN
BOISE, ID 83714

**Priority Date:** 2/7/1973

**Source:** GROUND WATER

| BENEFICIAL USE | From | | To | Diversion Rate |
|---|---|---|---|---|
| IRRIGATION | 04/01 | to | 10/15 | 0.840 cfs |
| | | | | 0.840 cfs |

**LOCATION OF POINT(S) OF DIVERSION**

| | | | |
|---|---|---|---|
| GROUND WATER | SWNENW | Sec 34 Twp 15N Rge 21E | CUSTER County |
| GROUND WATER | NWNW | Sec 34 Twp 15N Rge 21E | CUSTER County |

**PLACE OF USE: IRRIGATION**

| | | | NE | | | | NW | | | | SW | | | | SE | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Twp | Rng | Sec | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 15N | 21E | 27 | | | | | | | 6 | 5 | 20 | 6 | 5 | 14 | | 0.2 | 5 | | 61.2 |
| 15N | 21E | 34 | | | | | 3.0 | 11.0 | 13.0 | 9.0 | | | | | | | | | 36.0 |

Right Acre Limit: 70.0
POU Total Acres: 97.2

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 70 acres within the authorized place of use in a single irrigation season.
2. Rights 73-78, 73-116 and 73-12282 when combined shall not exceed the irrigation of 97.2 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. 73.
4. Prior to the diversion and use of water under Transfer approval 89127, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

# WATER RIGHT NO. 73-12282

## As Modified by Transfer No. 89127

**CONDITIONS OF APPROVAL**

5. The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than February 2, 2009.

6. This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the place of use.

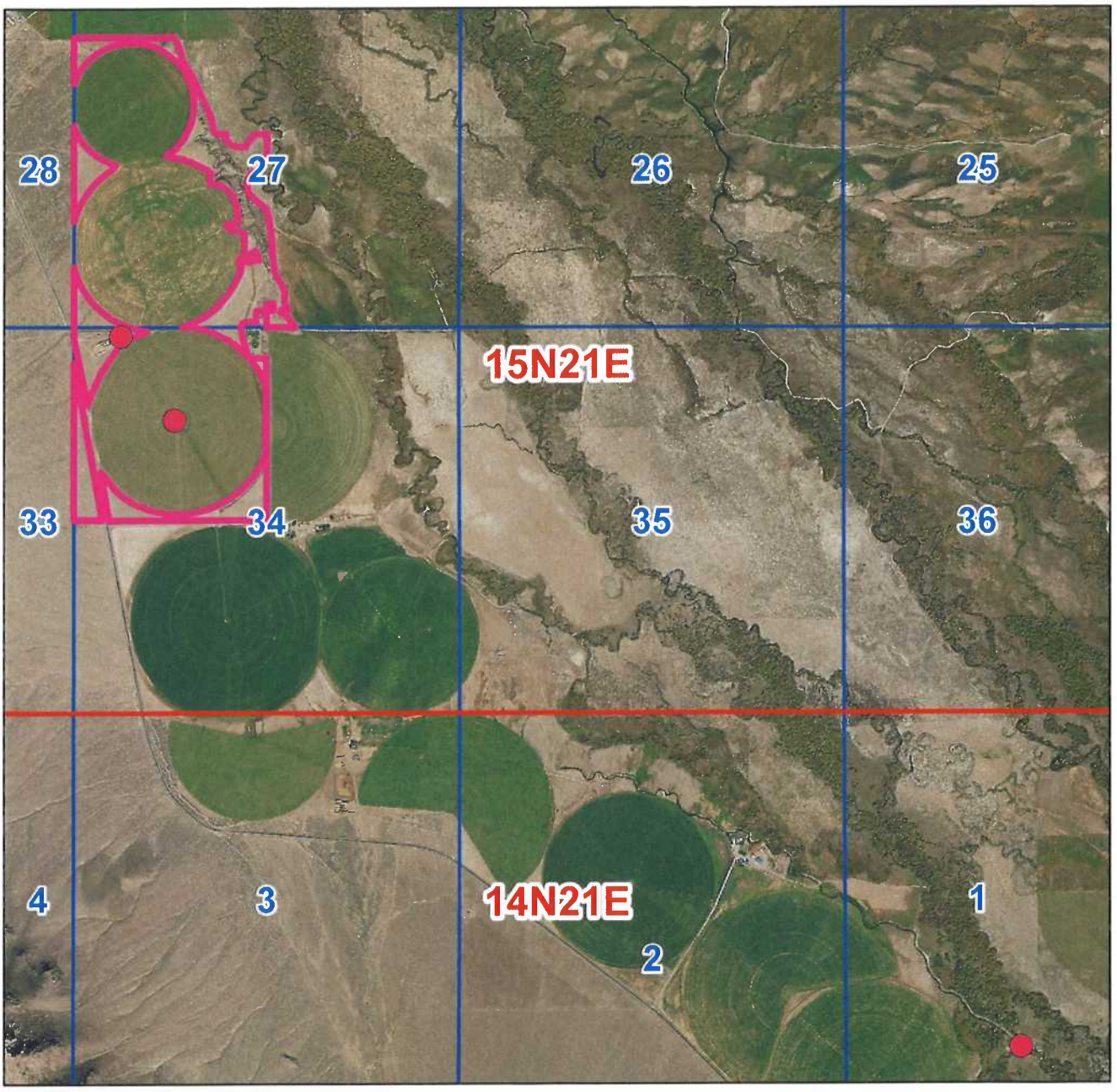
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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 Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

# Attachment to Transfer Approval 89127

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

0 1,500 3,000 6,000 Feet

N
W E
S

Date: 9/19/2024

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

September 19, 2024

SCOTT HAYES
9417 N WINTERWOOD LN
BOISE ID 83714

Re: Transfer No: 89127
Water Right No(s).: 73-78, 73-116, 73-12282

**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:

HDR INC
C/O SCOTT KING
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659

## CERTIFICATE OF SERVICE

I hereby certify that on September 19, 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.: 89127**
**Water Right No(s).: 73-78, 73-116, 73-12282**

**SCOTT HAYES**
**9417 N WINTERWOOD LN**
**BOISE ID 83714**

**HDR INC**
**C/O SCOTT KING**
**412 E PARKCENTER BLVD STE 100**
**BOISE ID 83706-6659**

**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.