

RECEIVED

NOV 09 2022

WATER RESOURCES
WESTERN REGION

WITHDRAWAL

OF

APPLICATION FOR TRANSFER OF WATER RIGHT(S)

I/We, Act Holdings LLC and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

_____ and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

hereby withdraw our Application for Transfer No. 86034 of Water Right

No(s). 65-1399, 65-1404 and 65-4009

Signed this 2nd day of November, 20 22

Cathy L. Smith / manager
(Signature/Title of Applicant) Sole proprietor

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

SUPPORT DATA
IN FILE #65-1399

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

86034

MAY 12 2022

WATER RESOURCES
WESTERN REGIONMINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) ACT Holdings LLCCheck whether each item below is **attached (Yes)** or **not applicable (N/A)** for the proposed transfer.Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a [Part 2A](#) report describing each water right in the transfer as currently recorded.
- ☒ ☐ Complete and attach an Application for Transfer [Part 2B](#) for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. ([Fee schedule](#) is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System ([GIS](#)) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see [fee schedule](#).
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. ([Attachment WSB](#))
- ☐ ☒ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 30 2022
WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) ACT Holdings Phone 208 365-8050
Mailing address P.O. Box 140355, Garden City, ID 83714 Email ACTholdings-ID@gmail.com

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

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

☒ No Representative

Name of Representative N/A Phone N/A
Mailing address N/A Email N/A

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

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

Cathy L. Smith
Signature of Applicant or Authorized Representative

cathy L. Smith sole Proprietor 3-28-2022
Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s)
☐ Change nature of use ☐ Change period of use
- ☒ Change place of use
☒ Other permissible place of use to include 107 acres
2. Is this a transfer for changes pursuant to Idaho Code §42-221.O.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2.**
3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3.**

The existing water right has not be used to full right. We have since acquired an additional adjoining parcel with no water right. we would like to appropriate some to these parcels to use the full right.

CL 5/12/2022

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

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

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	65-4009	3.64 cfs	irrigation	3-15 to 11-15	Payette River / Snake River
☒ ☐	65-1399	1.80 cfs	irrigation	3-15 to 11-15	Payette River / Snake River
☒ ☐	65-1404	.16 cfs	irrigation	3-15 to 11-15	Payette River / Snake River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 5.60 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.34 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion: for 16.8 acres.

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

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

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

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	01W	32													2.4				2.4
07N	01W	33			4				7.1	23	28	32.8	4.5	5.2					104.6

Total Acres (for irrigation use) 107.00

107.00

05/12/22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. 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:

Using existing diversion system and lines

- b. Who owns the property at the point(s) of diversion? ACT Holdings LLC

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: no liens

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank? no

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

no effect - will water with additional wheel line; better land management practices.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

none that I am aware of.

- g. 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 leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

n/a

CS
5.12.22

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**.

If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

B. CHANGES IN NATURE OF USE (WaterBalance)

- ☐ If you propose to change the nature of use or period of use of all or part of the rights(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☒ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

relocating to adjoining parcel without irrigation

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by CS Date 03/30/2022 Preliminary check by _____ Date _____

Fee paid \$250.00 Date 03/30/2022 Received by CS Receipt # W050255

Add'l fee paid \$300.00 Date 05/12/2022 Received by lt Receipt # W050420

Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

5/12/22
CS

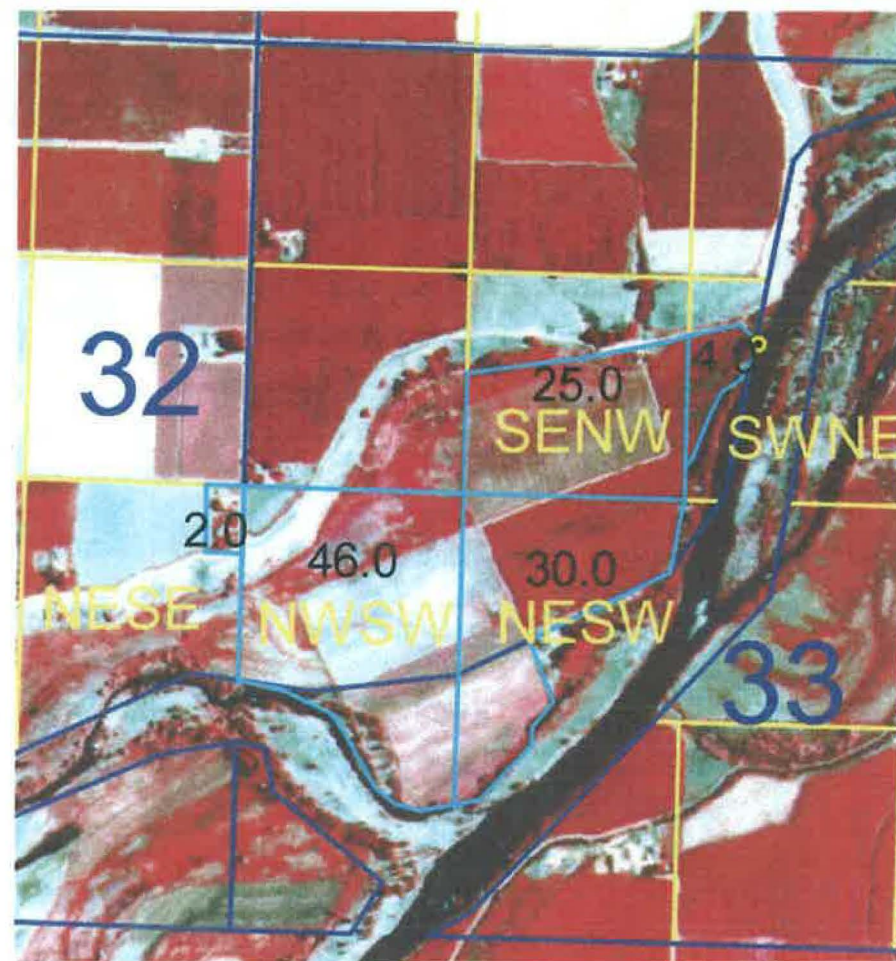
Idaho Department of Water Resources

Claim Number: 65-04009

Legal: T07N, R01W, S32 & 33

Reviewed By: 

-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines



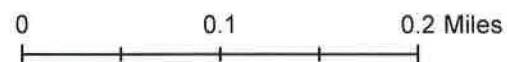
1987 Napp Photo

0 0.25 0.5 0.75 1 Miles

76



Application for Permit



IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

3/28/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 65-4009

Owner Type	Name and Address
Current Owner	ACT HOLDINGS LLC PO BOX 140355 GARDEN CITY, ID 83714 2083658050
Original Owner	JOHN C BROWN 1111 E IDAHO BLVD EMMETT, ID 83617 2083654982

Priority Date: 04/01/1895

Basis: Decreed

Status: Active

Source	Tributary
PAYETTE RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	3.64 CFS	
Total Diversion			3.64 CFS	

Location of Point(s) of Diversion:

PAYETTE RIVER | SWNE Lt 6 | Sec. 33 | Township 07N | Range 01W | GEM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION GEM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
07N	01W	32		NESE	2									
			6	SWNE	4									
				SENE	25									
			7	NESW	40	8	NWSW	36						

Total Acres: 107

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NO. 65-01404 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.64 CFS, AND TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 374.5 AF. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO .02 CFS PER ACRE: COMBINED RIGHT NOS.: 65-01404 AND 65-01399.
2. 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.
3. USE OF THIS RIGHT WITH RIGHT NO. 65-01404 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 107 ACRES IN A SINGLE IRRIGATION SEASON.

Dates:

Licensed Date:

Decreed Date: 06/28/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 107

Combined Volume Limit: 374.5

Combined Rate Limit: 3.64

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

3/28/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 65-1399

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ACT HOLDINGS LLC PO BOX 140355 GARDEN CITY, ID 83714 2083658050
Original Owner	JOHN C BROWN
Original Owner	MARY L BROWN 1111 E IDAHO BLVD EMMETT, ID 83617 2083654982

Priority Date: 04/01/1920

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
WASTE WATER	PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	1.8 CFS	
Total Diversion			1.8 CFS	

Location of Point(s) of Diversion:

WASTE WATER | SENW | Sec. 33 | Township 07N | Range 01W | GEM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION GEM County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
07N	01W	32		NESE	2									
		33	6	SWNE	4									
				SENW	25									
			7	NESW	30	8	NWSW	29						

Total Acres: 90

Conditions of Approval:

1. WHEN THIS RIGHT IS COMBINED WITH THE RIGHTS LISTED BELOW IT SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.: 65-04009 AND 65-01404.
2. 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.

Dates:

Licensed Date:

Decreed Date: 06/28/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

3/28/2022

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 65-1404

Owner Type	Name and Address
Current Owner	ACT HOLDINGS LLC PO BOX 140355 GARDEN CITY, ID 83714 2083658050
Original Owner	JOHN C BROWN
Original Owner	MARY L BROWN 1111 E IDAHO BLVD EMMETT, ID 83617 2083654982

Priority Date: 06/01/1950

Basis: Decreed

Status: Active

Source	Tributary
SPRING	PAYETTE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	0.16 CFS	
STOCKWATER	1/01	12/31	0.14 CFS	4.1 AFA
Total Diversion			0.16 CFS	

Location of Point(s) of Diversion:

SPRING | NWSW Lt 8 | Sec. 33 | Township 07N | Range 01W | GEM County

Place(s) of use:

Place of Use Legal Description: IRRIGATION GEM County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
07N	01W	32		NESE	2									
		33	8	NWSW	6									

Total Acres: 8

Conditions of Approval:

1. WHEN THIS RIGHT IS COMBINED WITH THE RIGHTS LISTED BELOW IT SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.: 65-04009 AND 65-01399.

2. 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.
3. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Dates:

Licensed Date:

Decreed Date: 06/28/2002

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 107

Combined Volume Limit: 374.5

Combined Rate Limit: 3.64

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False



IDAHO DEPARTMENT
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

November 14, 2022

ACT HOLDINGS LLC
PO BOX 140355
GARDEN CITY, ID 83714

Re: Withdrawal of Application for Transfer No. 86034

Dear Applicant:

Thank you for your recent withdrawal of the above referenced application. Regional staff submitted a refund request to our fiscal department. A refund of your filing fee will be issued within two weeks.

Please contact our office at 208-334-2190 if you have additional questions in this matter. Also, more information about water rights and other matters administered by this agency is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Allen Bradbury
Water Resource Agent, Sr.
Western Region

Enclosures:

CC: Albert P. Barker, Barker Rosholt & Simpson LLP

MEMORANDUM

TO: IDWR Payable
FROM: Allen Bradbury
DATE: 11/10/2022
RE: **Refund Request: Application for Transfer**

ACT HOLDINGS LLC paid \$550 for an application for transfer of water rights 65-1399, 65-1404, and 65-4009 on May 12, 2022. The application for transfer was withdrawn by the applicant on November 9, 2022. A refund should be issued.

Please issue a \$550 refund as follows:

TO

ACT HOLDINGS LLC
PO BOX 140355
GARDEN CITY, ID 83714

TEL. (208) 365-8050

RECEIPT

Receipt no. W050255 and W050420

Copy: app # 86034



**Barker Rosholt
& Simpson LLP**

Albert P. Barker

EMAIL: apb@idahowaters.com

PHONE: 208.336.0700

WEB: idahowaters.com

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NOV 09 2022
WATER RESOURCES
WESTERN REGION

Boise

1010 W. Jefferson St. Suite 102
Boise, Idaho 83702
p. 208.336.0700
f. 208.344.6034

Attorneys

Albert P. Barker
John K. Simpson
Travis L. Thompson
Scott A. Magnuson
of counsel
Sarah W. Higer
Michael A. Short
John A. Rosholt
(1937-2019)

November 7, 2022

Clerk
Idaho Department of Water Resources
Western Region
2735 W Airport Way
Boise, ID 83705-5082

Re: Withdrawal of Application for Transfer – No. 86034

Dear Clerk:

Enclosed please find the original signature of Ms. Cathy Smith regarding the above-matter. Kindly stamp received the copy and enclosed is an envelope for you to mail back the conformed copy.

CS
11/09/22

Sincerely,

BARKER ROSHOLT & SIMPSON LLP


Ailen Evaniuck
Legal Assistant

Enc. a/s



Barker Rosholt
& Simpson LLP

Albert P. Barker

EMAIL: apb@idahowaters.com

PHONE: 208.336.0700

WEB: idahowaters.com

Boise

1010 W. Jefferson St. Suite 102

Boise, Idaho 83702

p. 208.336.0700

f. 208.344.6034

Attorneys

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Scott A. Magnuson
of counsel

Sarah W. Higer

Michael A. Short

John A. Rosholt
(1937-2019)

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NOV 02 2022

**WATER RESOURCES
WESTERN REGION**

October 31, 2022

Allen Bradbury
Water Resource Agent, Sr.
Idaho Department of Water Resources
Western Region
2735 W Airport Way
Boise, ID 83705-5082

Re: Transfer Application No. 86034

Dear Allen,

Thank you and Scott Storms for speaking with Cathy Smith and me on Friday. After our call, Cathy and I conferred and concluded that at this time Cathy Smith would withdraw the pending transfer application no. 86034. She intends to resubmit her application next year to clarify the areas that had been irrigated on her property, recognizing that legal descriptions associated with her water rights may not accurately described the irrigated acres.

We appreciate your time on the phone on Friday and look forward to providing you with an updated transfer application in 2023.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Albert P. Barker

cc: Cathy Smith
APB/aje



September 29, 2022

ACT HOLDINGS LLC
PO BOX 140355
GARDEN CITY, ID 83714

COPY

Re: Transfer Application #86034

Dear Applicant:

I am writing to you today regarding your Application for Transfer of a Water Right no. 86034. The Idaho Department of Water Resources (Department) reviewed this application, including a validity review of your place of use (POU). As part of the water right validity review, the Department completes a forfeiture review of your water rights.

The Department's review of your water rights found the following: Water rights 65-1399, 65-1404, and 65-4009 authorizing the irrigation of 90 acres, 8 acres, and 107 acres respectively. Satellite imagery was used to determine that there are only 87.7 acres currently under irrigation. A water right analysis was conducted using the largest water right 65-4009. The place of use acres were compared to the acres currently under irrigation as they related to the acres list in the transfer application table. The analysis resulted in the following information:

- There are 34 acres that are part of a water right 65-4009 but appear to be unirrigated and are at risk for forfeiture (see attached water right analysis table).
- There are 5.0 acres in NWSW Lot 8 of Section 33 which do not appear to be irrigated though they are part of water rights 65-4009, 65-1399, and 65-1404. These acres are at risk of forfeiture (see attached water right analysis table).
- There are 14.7 acres that appear to be irrigated but are not legally describe on any of the water rights (see attached water right analysis table).
- There are 14.3 acres which do not appear to be irrigated and are not legally described by any of the water rights (see attached water right analysis table).

Idaho Code §42-222(2) states in part: *All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; except that any right to the use of water shall not be lost through forfeiture by the failure to apply the water to beneficial use under certain circumstances as specified in section 42-223.*

Circumstances outlined in §42-223 are attached to this letter. Please provide any defense to a partial forfeiture that would cause the Department not to reduce the diversion of your water rights in the amount of 0.68 cfs and 34 acres.

In addition, it is uncertain whether you intended to file for a permissible place of use (PPU) or a specifically designated place of use (POU) for each water right. If you intend a specific place of use for each water right (not a PPU), please provide maps and a place of use grid for water rights 65-1399 and 65-1404 as part of your transfer application. If you would like all water rights combined into a PPU please provide evidence that the three points of diversion will divert into a common system which can deliver water within the entire place of use.

Please submit the requested information for the application to be processed. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be rejected or approved with partial forfeiture without a timely written reply within the next **thirty (30) days**. Thank you for your time and for your attention to these matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Allen Bradbury", with a stylized flourish at the end.

Allen Bradbury
Water Resource Agent, Sr.

Attachments: Idaho Code §42-223
Water Right Analysis Table
Water Right Analysis Maps