

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 86656 IN THE)	PRELIMINARY ORDER DENYING
NAME OF CHRIS UNRUH)	APPLICATION FOR TRANSFER
_____)	

This matter having come before the Department of Water Resources (Department) as a result of an application to transfer water rights, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 27, 2022, Chris Unruh (Applicant) filed Application for Transfer No. 86656 (Application) with the Department. The Application proposed to change the 42-acre irrigation place of use of water right 2-10201.
2. Water Right 2-10201 authorizes diversion of 0.83 cubic feet per second of water from the Snake River for irrigation of 42 acres in Owyhee County. The Application proposed to change the entire 42-acre place of use to an existing pivot on land owned by the Applicant. The decreed place of use includes land not owned by the Applicant, is irrigated by several overlapping water rights, and is not fully irrigated, based on Department review of aerial imagery.
3. On April 2, 2024, the Department mailed the Applicant a letter requesting information to confirm the Applicant's authority to make changes to portions of water right 2-10201 on property north of Shoofly Canal and requesting information to confirm the water right was valid. In the letter, the Department informed the Applicant that if they did not respond to the request within 30 days, the Department would reject the transfer application.
4. As of this date, the Department has not received a response to the letter.

CONCLUSIONS OF LAW

1. When evaluating a transfer application, the Department first determines whether the applicant is "entitled to the use of water" as required by Idaho Code § 42-222(1). The Department interprets this requirement to mean that the water right(s) proposed to be changed must be valid. To determine water right validity, the Department requires evidence of a license, claim, or decree. Idaho Code § 42-222(1). The Department then evaluates the licensed, claimed, or decreed water right relative to the forfeiture provisions of Idaho Code § 42-222(2). If the water right proposed to be changed is not valid, the proposed change cannot be approved, and any further analysis is moot. If the water right proposed to be changed is valid, the Department applies the transfer evaluation criteria in Idaho Code § 42-222(1). Without the additional information requested from the Applicant, the Department cannot confirm the validity of water right 2-10201.
2. The Department should deny transfer application No. 86656.

ORDER

IT IS HEREBY ORDERED that transfer application No. 86656 in the name of Chris Unruh is **DENIED** without prejudice.

Dated this 9th day of August, 2024.



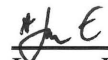
Nick Miller
Manager, IDWR Western Region

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August, 2024, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

CHRIS UNRUH
25289 HIPWELL LN
GRAND VIEW ID 83624-5119
Applicant

- ☒ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Email



Lynne Evans
Administrative Assistant I

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.

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 86656

MAY 27 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) Chris UnruhCheck 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 <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☐ ☒ #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 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

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Chris Unruh Phone 208-863-1569
Mailing address 25289 Hiwell Lane Q View Id 83624 Email unruhchris@yahoo.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**.
- ☐ 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**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

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 _____ Phone _____
Mailing address _____ Email _____

- ☐ 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.

Signature of Applicant or Authorized Representative [Signature] Print Name and Title if applicable Chris Unruh owner Date May 27/22
Signature of Applicant or Authorized Representative _____ Print Name and Title if applicable _____ Date _____

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
- 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**.
- 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**.

Water is in Bybee Canal Main line to
new PDU

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	2-10201	1.83	Irr.	3/15 to 11/15	Snake R.
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 1.83 cfs and/or 189 acre-feet.

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

3. Point(s) of Diversion:

- ☒ 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	
05S	03E	25																17	17
05S	03E	36	25																25
Total Acres (for irrigation use)																			42

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:

Use existing mainline from Bybee Canal

- b. Who owns the property at the point(s) of diversion? Shared Canal

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: N/D

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?

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:

N/A

- 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:

57-2228 also used to water this

- 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:

Refused form WSB 12/31/18

[illegible]

86050

Attachment # 7 b



New acres (42)

#86050

Attachment # 7b



Legend

 New_POD

 2-10201_POD

 New_Place_of_Use

original POD

N

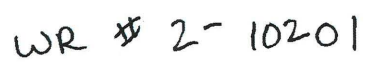


Stats the same

0 0.05 0.1 0.2 Miles



86050



86656

Catherine Unruh authorizes Chris Unruh to make changes to Water Rite transfer # 82946 -82919
and all other changes concerning water rite matters .

Catherine Unruh 1-18-2019

Catherine Unruh 1-24-2022

86050

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/27/2022

Water Right 2-10201

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CHRIS UNRUH 25289 HIPWELL LN GRAND VIEW, ID 83624-5119 (208) 863-1569
Current Owner	CATHERINE UNRUH 25289 HIPWELL LN GRAND VIEW, ID 83624-5119 (208) 834-2879
Original Owner	3 CROWN INC , ID
Original Owner	NORMA J YORGASON TRUST C/O J RAMON YORGASON TRUSTEE 7247 POTOMAC DR BOISE, ID 83704 (208) 377-3939
Previous Owner	TRIANGLE DAIRY INC PO BOX 7526 BOISE, ID 83707 (208) 345-3130

Priority Date: 7/23/1974

Basis: Decreed

Status: Active

Source
SNAKE RIVER

Tributary
COLUMBIA RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.830 CFS	189.0 AF
	<u>Total Diversion</u>		0.830 CFS	189.0 AF

Source and Point(s) of Diversion:

SNAKE RIVER L9(SESW) Sec. 34, Twp 05S, Rge 04E, OWYHEE County

Place Of Use:

IRRIGATION within OWYHEE County

NE	NW	SW	SE
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IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/27/2022

Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
05S	03E	36											4.0						4.0
05S	04E	31						0.5	8.0	3.5	2.0	24.0							38.0

POU Total Acres: 42.0

Conditions of Approval:

1. S47 The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. P21 This right is a split from former right 2-10197.
3. F06 The following rights are diverted through point of diversion described above: 2-10198, 2-10201, & 2-10202.
4. 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.

Comments:

1 nvandyke 12/11/2009 transfer 73775

As a result of two petitions for reconsideration and subsequent orders regarding transfer 73775, it has been determined that this right does not need to be considered associated to transfer 73775. An amended approval incorporating the changes made by both orders will be issued. See file for final amended approval. The elements of this right now reflect the partial decree.

Dates and Other Information:

Decreed Date: 6/15/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 02
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Water Rights</u>
11.700	2,700.0	601.0	2-2176B ,2-2405B ,2-10198 ,2-10201 ,57-11838

SubCase:

N/A

Water Supply Bank:

86050

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/27/2022

N/A



Governor Brad Little

Director Mathew Weaver

April 2, 2024

CHRIS UNRUH
25289 HIPWELL LN
GRAND VIEW ID 83624-5119

Re: Transfer Application No. 86656

Dear Mr. Unruh,

In reviewing application for transfer no. 86656 for water right no. 2-10201, the Idaho Department of Water Resources (Department) found two issues: the first being the question of ownership north of the Shoofly canal, and the second being the question of validity of water right 2-10201 south of the canal.

Regarding ownership of the water right north of Shoofly Canal:

- North of the Shoofly Canal, this water right is authorized for 14 acres of irrigation:
 - 0.5 acres in T05S R04E Sec. 31 NWNW Lot 2
 - 8.0 acres in T05S R04E Sec. 31 SWNW Lot 3
 - 3.5 acres in T05S R04E Sec. 31 SENW
 - 2.0 acres in T05S R04E Sec. 31 NESW

The Department reviewed previous decisions concerning the acres above Shoofly Canal. In the Matter of Transfers Nos. 73775 and 73776 in the name of Ted and/or Sandy Cantrell, involving overlapping acres between rights 2-202A, 57-7100 and 2-10201, the Department reviewed the deed submitted with the split of right 2-7154. This split resulted in rights 2-10197 in the name of Triangle Dairy and 2-10198 in the name of Unruh, with the 12 acres retained by Triangle Dairy. The Department reached the following conclusions: that "12 acres of the 42 acres appurtenant to right 2-10201, as decreed, are located north of the Shoofly Canal" and that "12-acre portion of right 2-10201 is appurtenant to lands authorized under the place of use of rights 2-202A and 57-7100." Concerning the NW¼ of Section 31, T05S, R04E, Triangle Dairy retained the acreage north of the canal, and Unruh was conveyed the acres south of the canal.

Regarding the validity of the acres described on water right 2-10201 south of the Shoofly Canal, the following was determined:

The authorized place of use (POU) for water right 2-10201 is 42 acres within Township 05S Range 04E Sections 31 and 36. These acres were examined for evidence of irrigation.

- South of the Shoofly Canal, this water right is authorized for 28 acres of irrigation:
 - 24 acres in the T05S R04E Sec. 31 NWSW lot 4
 - 4 acres in T05S R03E Sec. 36 NWSW.

- These 28 acres overlap water rights: 2-2176B, 2-2405B, and 2-10198 from the Snake River. As well as water right 57-11838 from Shoofly Creek.

Evidence of irrigation use was evaluated by comparing historical aerial imagery from 2009 through 2021. The 24 acres in Section 31 NWSW Lot 4 were continuously irrigated from 2009 through 2021. Also, the 4 acres of Section 36 NWSW were continuously irrigated from 2009 through 2021.

The Department's review of your water right also found the following:

Water right 2-10102 was decreed on 6/15/2009.

Water right 2-10102 was placed in the Water Supply Bank (WSB) on 2/27/2015.

Water right 2-10102 was released from the WSB on 12/31/2018.

Maps of your property, based on aerial imagery show little change in the total number of acres irrigated between 2009 and 2021. This seems to indicate that acres were not dried up during the Water Supply Bank (WSB) lease nor was irrigation resumed on previously dry acres after release from the WSB.

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, Idaho Code.

Although the Department does not actively seek forfeiture of those rights which have not been applied to their beneficial use for a term of five years or more, the Department cannot move forward with transfer of rights which may be subject to forfeiture. Please review the exceptions and defenses to forfeiture as outlined in Idaho Code §42-223 (attached). If you believe water right 2-10201 fits within one or more of the exceptions or defenses, please provide further evidence for the Department to review.

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**. Alternatively, you may withdraw the application for transfer by completing the form enclosed with this letter. Thank you for your time and for your attention to these matters.

Respectfully,



Allen Bradbury
Water Resource Agent, Sr.

Attachments: Idaho Code §42-223
Water Right Map
Withdrawal of Application for Transfer form.