STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 86243

This is to certify that: SMITH MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
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

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
1-10058	WR/DECREED	2/21/1890	10.580 cfs	N/A	263.5	695.0	SNAKE RIVER
27-12108	WR/DECREED	6/7/1929	13.900 cfs	N/A	N/A	695.0	BLACKFOOT RIVER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
1-10058	NO	NO	NO	YES	NO	NO
27-12108	NO	NO	NO	YES	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
1-10058	1-10058	10.580 cfs	N/A	263.5	N/A	N/A	N/A	N/A	N/A	N/A
27-12108	27-12108	13.900 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**4.000 cfs**	**N/A**	**695.0**	**695.0**		**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 18th day of September, 2023.

Regional Manager

Support Data
In File # 1-10058

Transfer No. 86243

WATER RIGHT NO. 27-12108

As Modified by Transfer No. 86243

In accordance with the approval of Transfer No. 86243, Water Right No. 27-12108 is now described as follows:

Right Holder: SMITH MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
BLACKFOOT, ID 83221

Priority Date: 6/7/1929

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

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/15	13.900 cfs
STOCKWATER	10/15	to	12/15	0.140 cfs
				13.900 cfs

LOCATION OF POINT(S) OF DIVERSION

BLACKFOOT RIVER	SWSWSW	Sec 23 Twp 03S Rge 34E	BINGHAM County
BLACKFOOT RIVER	SENW	Sec 28 Twp 03S Rge 34E	BINGHAM County

CONDITIONS OF APPROVAL

1. Rights 1-10058 and 27-12108 when combined shall not exceed a total diversion rate of 13.9 cfs and the irrigation of 695 acres.
2. Diversion of water from the additional point of diversion authorized under Transfer 86243 located in SENW, Sec. 28, T03S, R34E shall not exceed a maximum diversion rate of 4.00 cfs.
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. Prior to the diversion and use of water under Transfer approval 86243, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and 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.
5. 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).
6. Place of use is within the area served by Smith-Maxwell Ditch Company.

WATER RIGHT NO. 27-12108

As Modified by Transfer No. 86243

CONDITIONS OF APPROVAL

7. 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.

8. This water right is entitled to the protections of paragraph x.d of water right 27-11375.

9. Stockwater use is for 600 range cattle.

10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

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

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

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

14. 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. 1-10058

As Modified by Transfer No. 86243

In accordance with the approval of Transfer No. 86243, Water Right No. 1-10058 is now described as follows:

Right Holder: SMITH MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
BLACKFOOT, ID 83221

Priority Date: 2/21/1890

Source: SNAKE RIVER **Tributary:** COLUMBIA RIVER

BENEFICIAL USE	From		To	Diversion Rate
IRRIGATION	04/01	to	10/31	10.580 cfs
				10.580 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER	L1 (NENESE)	Sec 8	Twp 02S Rge 36E	BINGHAM County	
SNAKE RIVER	SWSWSW	Sec 23	Twp 03S Rge 34E	BINGHAM County	(R)
SNAKE RIVER	SENW	Sec 28	Twp 03S Rge 34E	BINGHAM County	(R)
SNAKE RIVER	L1 (SESESE)	Sec 10	Twp 03S Rge 35E	BINGHAM County	(I)

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 263.5 acres within the authorized place of use in a single irrigation season.

2. Rights 1-10058 and 27-12108 when combined shall not exceed a total diversion rate of 13.9 cfs and the irrigation of 695 acres.

3. Diversion of water from the additional point of diversion authorized under Transfer 86243 located in SENW, Sec. 28, T03S, R34E shall not exceed a maximum diversion rate of 4.00 cfs.

4. 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. 01.

5. Prior to the diversion and use of water under Transfer approval 86243, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion and 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.

6. 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).

WATER RIGHT NO. 1-10058

As Modified by Transfer No. 86243

CONDITIONS OF APPROVAL

7. Point of injection into and point of rediversion from Blackfoot River.

8. Place of use is within the area served by Smith-Maxwell Ditch Company.

9. 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.

10. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.

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

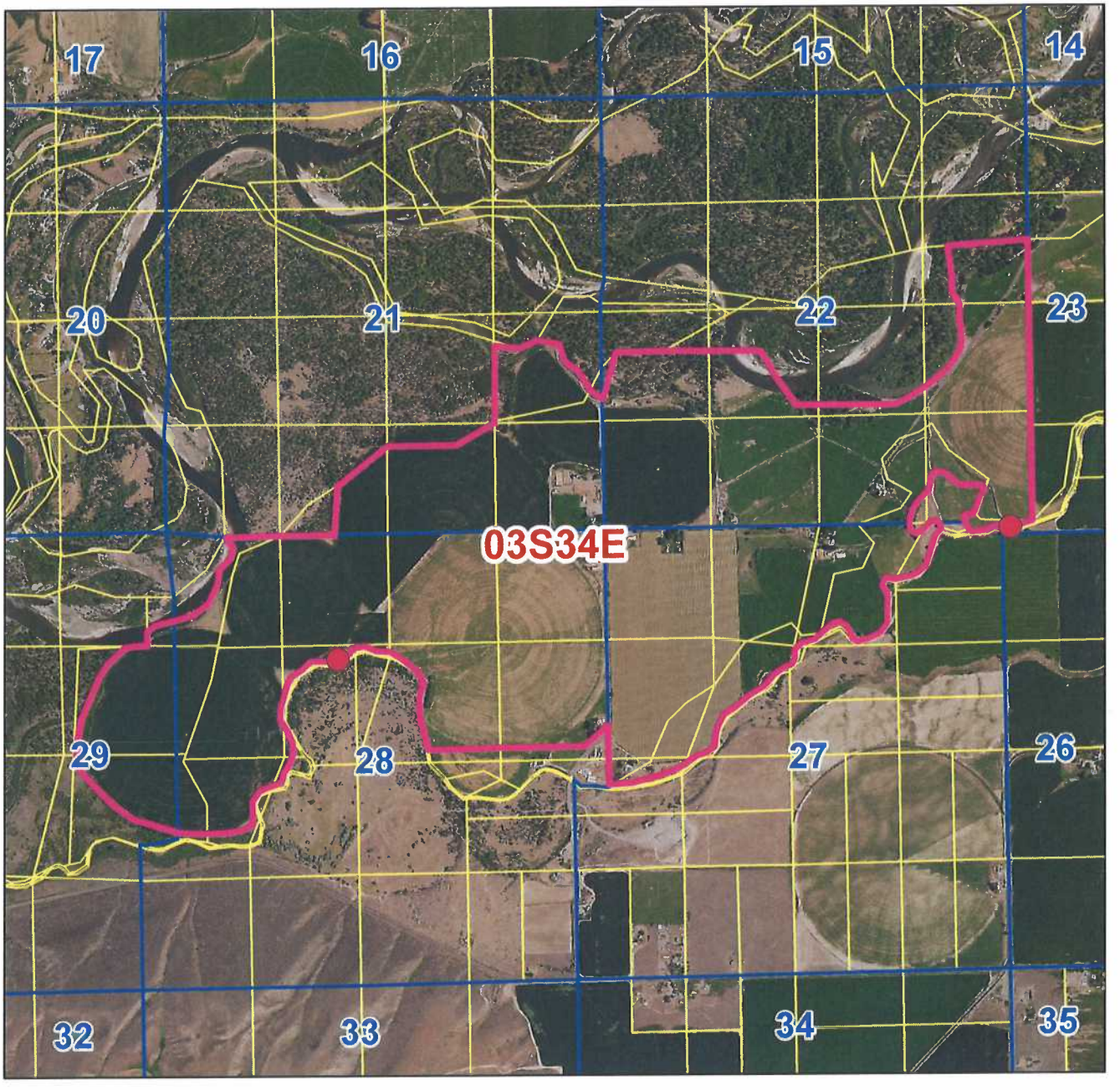
12. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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

14. 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.

Attachment to Transfer Approval 86243

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



Legend

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

0 0.25 0.5 1 Miles

N
W E
S

Date: 9/18/2023

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 18, 2023

SMITH MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
BLACKFOOT ID 83221

Re: Transfer No: 86243
Water Right No(s).: 1-10058, 27-12108

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:

THOMPSON BROTHERS LLC
493 S 1200 W
PINGREE ID 83262-1316

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2023 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.: 86243
Water Right No(s).: 1-10058, 27-12108

SMITH MAXWELL DITCH CO
C/O LAYNE HAMILTON
839 W RIVERTON RD
BLACKFOOT ID 83221

THOMPSON BROTHERS LLC
493 S 1200 W
PINGREE ID 83262-1316

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.