

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88453**

This is to certify that: VALLIVUE SCHOOL DISTRICT #139
5207 S MONTANA AVE
CALDWELL, ID 83607-1583

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-35485	WR/DECREED	9/26/1956	0.350 cfs	N/A	N/A	22.0	GROUND WATER
63-35486	WR/DECREED	3/2/1969	0.260 cfs	N/A	N/A	22.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-35485	NO	YES	NO	NO	NO	NO
63-35486	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-35485	63-35485	0.200 cfs	N/A	N/A	13.0	N/A	N/A	N/A	N/A	N/A
63-35486	63-35486	0.160 cfs	N/A	N/A	13.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.360 cfs	58.5 af	N/A	13.0		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 20th day of November, 2023

SCOTT STORMS, Water Rights Supervisor

SUPPORT DATA
IN FILE # 63-35485

Transfer No. 88453

WATER RIGHT NO. 63-35485

As Modified by Transfer No. 88453

In accordance with the approval of Transfer No. 88453, Water Right No. 63-35485 is now described as follows:

Right Holder: VALLIVUE SCHOOL DISTRICT #139
5207 S MONTANA AVE
CALDWELL, ID 83607-1583

Priority Date: 9/26/1956

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/01	to 11/15	0.200 cfs 0.200 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 10 Twp 03N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03W	10									13.0								13.0

POU Total Acres: 13.0

CONDITIONS OF APPROVAL

1. Rights 63-35485 and 63-35486 when combined shall not exceed a total annual maximum diversion volume of 58.5 af at the field headgate, and the irrigation of 13 acres.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. Use of this right is combined with water from Wilder Irrigation District.
5. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 88453

WATER RIGHT NO. 63-35485
As Modified by Transfer No. 88453

CONDITIONS OF APPROVAL

7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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. 63-35486
As Modified by Transfer No. 88453

In accordance with the approval of Transfer No. 88453, Water Right No. 63-35486 is now described as follows:

Right Holder: VALLIVUE SCHOOL DISTRICT #139
 5207 S MONTANA AVE
 CALDWELL, ID 83607-1583

Priority Date: 3/2/1969

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/20	to 11/01	0.160 cfs
			0.160 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESW Sec 10 Twp 03N Rge 03W CANYON County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03W	10									13.0								13.0

POU Total Acres: 13.0

CONDITIONS OF APPROVAL

1. Rights 63-35485 and 63-35486 when combined shall not exceed a total annual maximum diversion volume of 58.5 af at the field headgate, and the irrigation of 13 acres.
2. Right Nos. 63-2672, 63-7202, and 63-35486 are limited to a total combined diversion rate of 3.54 cfs, a total annual maximum diversion volume of 796.5 af at the field headgate, and the irrigation of 177 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/20 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 2/26/2009.
5. A measuring device of a type approved by IDWR shall be maintained as a part of the diverting works.

Transfer No. 88453

WATER RIGHT NO. 63-35486
As Modified by Transfer No. 88453

CONDITIONS OF APPROVAL

6. After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
7. Use of this right is combined with water from Wilder Irrigation District.
8. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
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 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.

State of Idaho
Department of Water Resources

Attachment to Transfer No.88453

Water Right(s): 63-35485 & 63-35486

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



Legend

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



Governor Brad Little

Director Mathew Weaver

November 22, 2023

VALLIVUE SCHOOL DISTRICT #139
5207 S MONTANA AVE
CALDWELL ID 83607-1583

Re: Transfer No: 88453
Water Right No(s): 63-35485, 63-35486

Transfer Approval Notice

Dear Water Right Holder(s):

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) 334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynne Evans".

Lynne Evans
Administrative Assistant I

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 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.: 88453

Water Right No(s): 63-35485, 63-35486

VALLIVUE SCHOOL DISTRICT #139 (Current Owner)
5207 S MONTANA AVE
CALDWELL ID 83607-1583

ATTN: LORI GRAVES
HDR INC (Representative)
412 E PARKCENTER BLVD STE 100
BOISE ID 83706-6659



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.

MEMORANDUM

TO: Transfer No. 88453
FROM: Marcelina Williams
DATE: November 10, 2023
RE: Evaluation of Application

The purpose for transfer is to change the point of diversion (POD) to reflect a proposed ground water well for water rights 63-35485 and 63-35486. Both rights are a result of an ownership change split from 63-3097 and 63-7202.

The proposed POD is located within Section 10 of T03N, R03W.

Summary of Information Submitted

Authority to File:

IDWR records show the applicant Vallivue School District #139 is the current owner of water rights 63-35485 and 63-35486. The county assessors have the Vallivue School District #139 as the owners of the parcel associated with water rights 63-35485 and 63-35486. The application was signed by Lisa Boyd who is the superintendent of the school district.

Water Right Validity:

Water rights water rights 63-3097 and 63-7202, owned by Gem State Academy, were split by the verified legal property description into child water rights 63-35485 and 63-35486. Validity review of the 22 acres owned by Vallivue School District #139 found only 13 acres to have been put to beneficial use over the past 5 years. The validity of only 13 of the 22 acres was confirmed and acknowledged by the representative for Vallivue School District and the application was proposed with this expectation. Therefore child right 63-35485 should be approved for 13 acres and 0.20 cfs, and child right 63-35486 should be approved for 13 acres at 0.16 cfs.

Injury to Other Water Rights:

Transfer 88453 proposes no changes in nature of use or quantity diverted at the new point of point of diversion. No injury is anticipated.

Enlargement of Use:

The proposed changes will not result in an increase in the diversion rate, or acres irrigated. Enlargement does not appear to be an issue.

Local Public Interest:

When transfer 88453 was advertised, the Department notified Wilder Irrigation Company. No protests were received. This transfer is not anticipated to cause potential water quality issues, impact current land use requirements on non-private land or impact fish/wildlife resources. For these reasons this application proposes a change consistent with the local public interest.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Water Right Overlap

The applicant proposes to irrigate the entire 13 acres of turf grass at a rate of 0.06 cfs/acre as allowed under application processing memo 60. The total rate necessary for the 13 acres would be $13 \text{ ac} \times 0.06 \text{ cfs/ac} = 0.78 \text{ cfs}$. The total rate recommended for approval of Transfer 88483 on rights 63-35484 & 63-35485 is $0.20 \text{ cfs} + 0.16 \text{ cfs} = 0.36 \text{ cfs}$. Therefore $0.78 \text{ cfs} - 0.36 \text{ cfs} = 0.42 \text{ cfs}$ necessary under new permit 63-35484 to bring the entire 13 acres up to 0.06 cfs/ac.

Discussion

If approved the following changes should be made to the conditions of water right no(s) 63-35485 and 63-35486; Add standard transfer conditions T07 and T08, update condition C18 to T19, update written combined limit condition to X35 for 13 acres and 58.5 af instead of 22 acres and 99 af. Condition 205 should also be added to explain that elements of the right were reduced as a result of the transfer. Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.