

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 89286**

This is to certify that: UNITED STATES OF AMERICA USDA FOREST SERVICE
324 25TH ST
OGDEN, UT 84401-2310

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>
65-9994	WR/DECREED	6/1/1933	0.010 cfs	0.1 af	N/A	N/A	SPOUT SPRING NO 1

Purpose of Transfer (Changes Proposed)

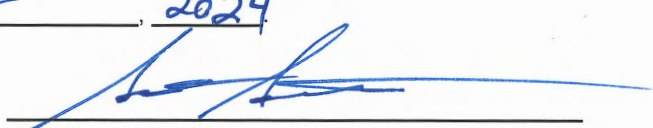
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
65-9994	NO	YES	YES	NO	NO	NO

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>
65-9994	65-9994	0.010 cfs	0.1 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.010 cfs	0.1 af	N/A	N/A		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 25th day of September, 2024


SCOTT STORMS, Water Resources Supervisor

WATER RIGHT NO. 65-9994

As Modified by Transfer No. 89286

In accordance with the approval of Transfer No. 89286, Water Right No. 65-9994 is now described as follows:

Right Holder: UNITED STATES OF AMERICA ACTING THROUGH
USDA FOREST SERVICE 550 W FORT ST MSC 033
BOISE, ID 83724-0001

Priority Date: 6/1/1933

Source: SPOUT SPRING NO 1

Tributary: COTTONWOOD CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
STOCKWATER	1/01	to 12/31	0.010 cfs	0.1 af
			0.010 cfs	0.1 af

LOCATION OF POINT(S) OF DIVERSION

SPOUT SPRING NO 1 SWSE Sec 33 Twp 12N Rge 02E GEM County

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	02E	33															X		

CONDITIONS OF APPROVAL

1. The quantity of water under this right shall not exceed 13,000 gallons per day.
2. The quantity of water decreed for this water right is not a determination of historical beneficial use.
3. FOREST SERVICE RECORD ID = 0402 17050122 65 0012 STOCKWATER, 1917 RANGE CATTLE
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

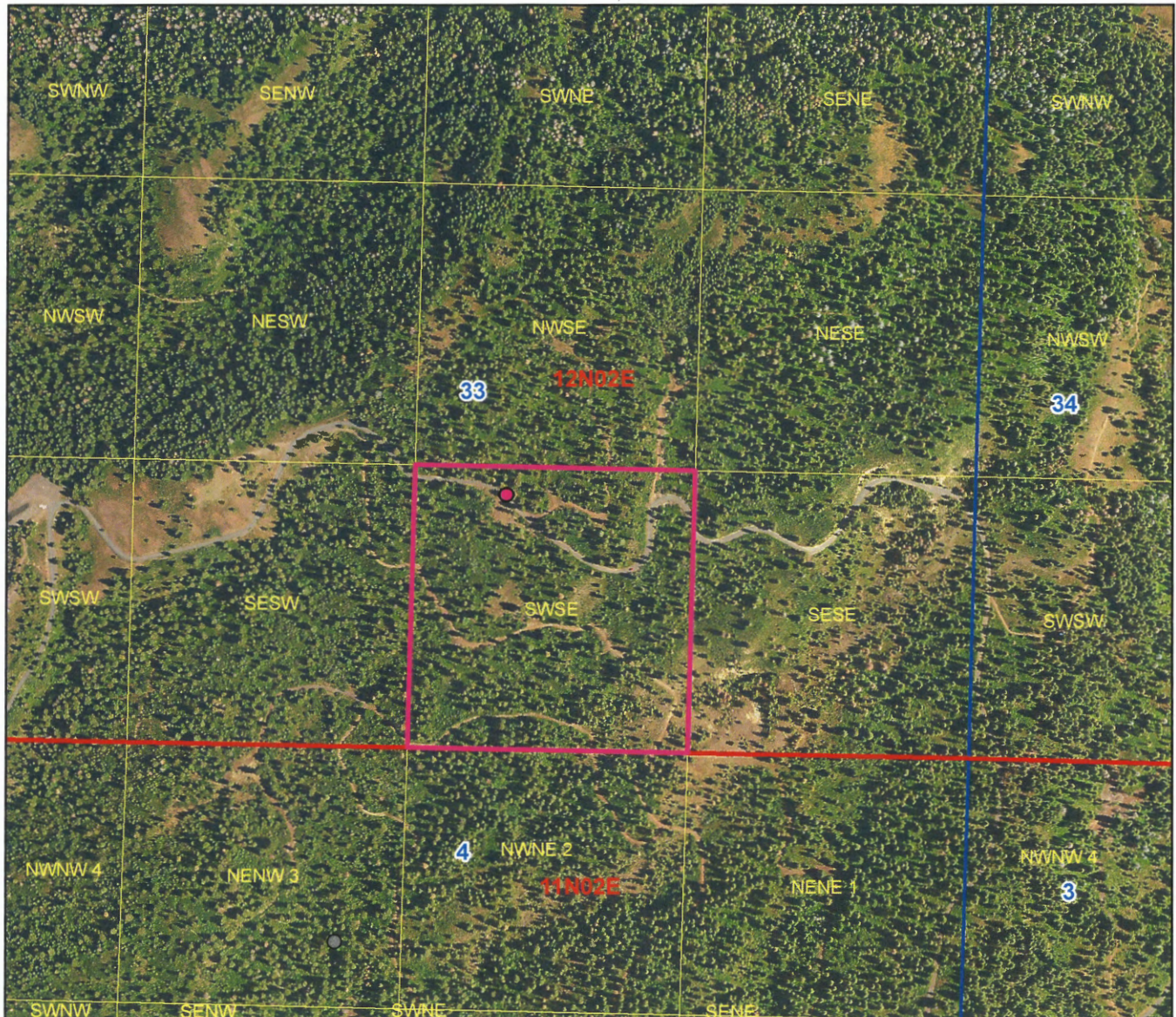
Transfer No. 89286

State of Idaho
Department of Water Resources

Attachment to Transfer No.89286

Water Right(s): 65-9994

This map depicts the STOCKWATER 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.



0 0.1 0.2 0.4 Miles

Legend

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





IDAHO DEPARTMENT OF
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 Mathew Weaver

October 02, 2024

UNITED STATES OF AMERICA USDA FOREST SERVICE
324 25TH ST
OGDEN UT 84401-2310

Re: Transfer No: 89286
Water Right No(s): 65-9994

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,



Marina Bozdog
Technical Records Specialist I

Enclosure(s)

CC: USFS R4 WATER RIGHTS AND USES PROGRAM MANAGER;

UNITED STATES OF AMERICA ACTING THROUGH USDA FOREST SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on October 02, 2024 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No: 89286
Water Right No(s): 65-9994

UNITED STATES OF AMERICA USDA FOREST SERVICE
324 25TH ST
OGDEN UT 84401-2310

USFS R4 WATER RIGHTS AND USES PROGRAM MANAGER
324 25TH ST
OGDEN UT 84401-2310

UNITED STATES OF AMERICA ACTING THROUGH USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE ID 83724-0001



Marina Bozdog
Technical Records Specialist 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. 89286
FROM: Marcelina Williams
DATE: September 20, 2024
RE: Evaluation of Application

The purpose for this transfer is to update the records for the location of the point of diversion (POD) and place of use (POU) to reflect the historically used locations for decreed water right 65-9994. The POD and POU have historically been located within the SWSE of Section 33 of T12N, R02E. This transfer qualified for the \$50 fee in accordance with §42-221(O)(8), where no physical change of the POD or POU would occur.

Summary of Information Submitted

Authority to File:

IDWR records show the applicant United States of America Acting Through the USDA Forest Service as the current owner of water right 65-9994. The county assessors have United States of America as the owners of the parcel associated with water right 65-9994. The application was signed by Nathan Haynes who is the department director of region 4 USDA.

Water Right Validity:

Water rights water right 65-9994 was decreed right on 10/23/1998. There is no evidence to suggest a term of 5 or more years of non-use, therefore the right is presumed to be valid.

Injury to Other Water Rights:

Transfer 89286 proposes no changes in nature of use or quantity diverted. No physical change will take place in the location of where the water will be diverted. No injury is anticipated.

Enlargement of Use:

The proposed changes will not result in an increase in the diversion rate, or overall use of water. Enlargement does not appear to be a concern.

Local Public Interest:

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.

Discussion

If approved the following changes should be made to the conditions of water right no 65-9994; Add standard transfer conditions T07 and T08. Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.