

AMENDED

AMENDED

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 88922

This is to certify that: CITY OF NYSSA
14 S 3RD ST
NYSSA, OR 97913

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>
63-3608	WR/DECREED	8/3/1964	1.340 cfs	863.9 af	N/A	N/A	GROUND WATER
63-7665	WR/DECREED	9/26/1972	0.950 cfs	N/A	N/A	N/A	GROUND WATER
63-7830	WR/DECREED	7/18/1973	1.000 cfs	N/A	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

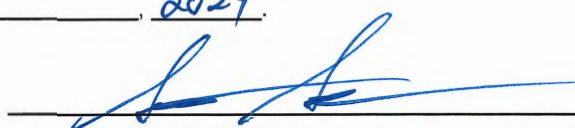
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-3608	NO	NO	NO	YES	NO	NO
63-7665	NO	NO	NO	YES	NO	NO
63-7830	NO	NO	NO	YES	NO	NO

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>
63-3608	63-3608	1.340 cfs	863.9 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-7665	63-7665	0.950 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
63-7830	63-7830	1.000 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.290 cfs	N/A	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 9th day of October, 2024.


SCOTT STORMS, Water Resources Supervisor

SUPPORT DATA

IN FILE # 63-3608

Transfer No. 88922

WATER RIGHT NO. 63-7830

As Modified by Transfer No. 88922

In accordance with the approval of Transfer No. 88922, Water Right No. 63-7830 is now described as follows:

Right Holder: CITY OF NYSSA
14 S 3RD ST
NYSSA, OR 97913

Priority Date: 7/18/1973

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	1/01	to 12/31	1,000 cfs 1,000 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L2 (SWNE)	Sec 7	Twp 06N Rge 05W CANYON County

CONDITIONS OF APPROVAL

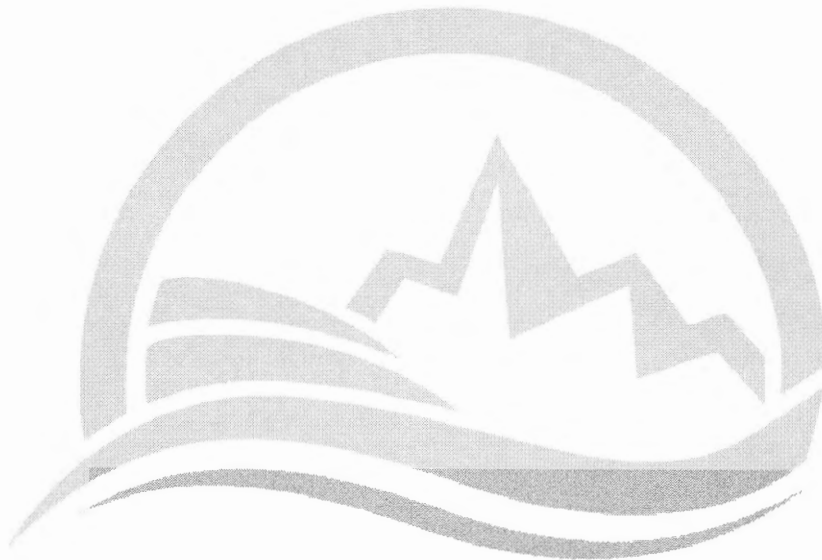
1. Place of use is within the service area of the City of Nyssa, Oregon municipal water supply system as provided for under Idaho Law.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the City of Nyssa wells 1, 2, 3, 4, and 5, all located in T06N, R05W, S7, Lot 1 (NWNE). Transfer 88922 authorizes the following additional wells: No. 10 located in T06N, R05W, S7, Lot 2 (SWNE) as a point of diversion under this right as of the date of approval.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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. 88922

WATER RIGHT NO. 63-7830
As Modified by Transfer No. 88922

CONDITIONS OF APPROVAL

7. 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. 63-3608

As Modified by Transfer No. 88922

In accordance with the approval of Transfer No. 88922, Water Right No. 63-3608 is now described as follows:

Right Holder: CITY OF NYSSA
14 S 3RD ST
NYSSA, OR 97913

Priority Date: 8/3/1964

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	1/01	to 12/31	1.340 cfs	863.9 af
			1.340 cfs	863.9 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L2 (SWNE)	Sec 7	Twp 06N Rge 05W CANYON County

CONDITIONS OF APPROVAL

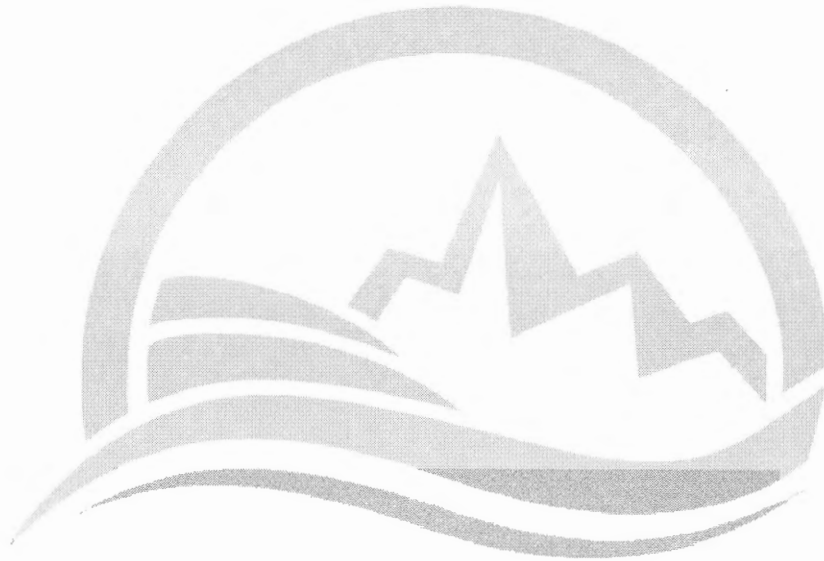
1. Place of use is within the service area of the City of Nyssa municipal water supply system.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the City of Nyssa wells 1, 2, 3, 4, and 5, all located in T06N, R05W, S7, Lot 1 (NWNE). Transfer 88922 authorizes the following additional wells: No. 10 located in T06N, R05W, S7, Lot 2 (SWNE) as a point of diversion under this right as of the date of approval.
4. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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. 88922

WATER RIGHT NO. 63-3608
As Modified by Transfer No. 88922

CONDITIONS OF APPROVAL

7. 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. 63-7665
As Modified by Transfer No. 88922

In accordance with the approval of Transfer No. 88922, Water Right No. 63-7665 is now described as follows:

Right Holder: CITY OF NYSSA
14 S 3RD ST
NYSSA, OR 97913

Priority Date: 9/26/1972

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	1/01	to 12/31	0.950 cfs 0.950 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L1 (NWNE)	Sec 7	Twp 06N Rge 05W CANYON County
GROUND WATER	L2 (SWNE)	Sec 7	Twp 06N Rge 05W CANYON County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Nyssa, Oregon municipal water supply system as provided for under Idaho Law.
2. 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.
3. To the extent necessary for administration between points of diversion for ground water, and between points of diversion for ground water and hydraulically connected surface sources, ground water was first diverted under this right from the City of Nyssa wells 1, 2, 3, 4, and 5, all located in T06N, R05W, S7, Lot 1 (NWNE). Transfer 88922 authorizes the following additional wells: No. 10 located in T06N, R05W, S7, Lot 2 (SWNE) as a point of diversion under this right as of the date of approval.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
6. 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. 88922

WATER RIGHT NO. 63-7665
As Modified by Transfer No. 88922

CONDITIONS OF APPROVAL

7. 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.





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 9, 2024

CITY OF NYSSA
14 S 3RD ST
NYSSA OR 97913-3816

Re: Transfer No: 88922
Water Right No(s): 63-3608, 63-7665, 63-7830

AMENDED Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved amended Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The amended 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 amended 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 cursive script that reads "Marina Bozdog".

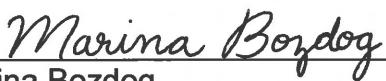
Marina Bozdog
Technical Records Specialist 1

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2024, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

CITY OF NYSSA
14 S 3RD ST
NYSSA OR 97913-3816



Marina Bozdog
Technical Records Specialist 1

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. 88922
FROM: Marcelina Williams
DATE: September 24, 2024
RE: Evaluation of Application

The purpose of this transfer is to add a new point of diversion (POD) to water rights 63-3608, 63-7665, 63-7830. The new POD is proposed to be a new 12 inch well located within Section 7 of T06N, R05W SWNE L2.

Summary of Information Submitted

Authority to File:

IDWR records show the applicant City of Nyssa as the current owner of water rights 63-3608, 63-7665, 63-7830. The county assessors have the City of Nyssa as the owners of the parcel associated with water rights 63-3608, 63-7665, 63-7830. The application was signed by James Maret, who is the city manager.

Water Right Validity:

water rights 63-3608, 63-7665, 63-7830 are decreed rights from the SRBA and therefore are presumed to be valid. No other evidence is present to assume otherwise.

Injury to Other Water Rights:

Transfer 88922 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:

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

The city of Nyssa has requested to add a sixth well to their municipal rights and refer to the new well as well number 10. Wells 1-5 are all recorded as PODs on water rights 63-3608, 63-7665, 63-7830.

Discussion

If approved, the following changes should be made to the conditions of water right no(s) 63-3608, 63-7665, 63-7830; Add standard transfer conditions T07 and T08. Condition 046 will also be added to water right 63-3608.

On water right no(s) 63-7830 and 63-7665, standard transfer condition T07 had been modified to say, "The right holder shall accomplish the change authorized by Transfer No. 4362 by June 2, 1995.". Upon approval water right 63-7830 and 63-7665 will reflect the standard language of T07 instead of the above language.