

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR) **PRELIMINARY ORDER GRANTING**
TRANSFER NO. 87938 IN THE NAME OF) **PETITION FOR RECONSIDERATION**
CITY OF HEYBURN) **AND AMENDING TRANSFER**
) **APPROVAL**
)

This matter having come before the Department of Water Resources ("Department") as a petition to reconsider a preliminary order approving a transfer application, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On January 19, 2024, the Department issued a preliminary order ("Order") approving Application for Transfer No. 87938 ("Transfer") in the name of City of Heyburn ("Applicant").
2. The Transfer proposed to add existing wells as points of diversion for water rights 36-4233, 36-7970, 36-8332, 36-8550, 36-8738, 36-8744, and 36-17185. The Transfer also proposed to change the place of use and the nature of use of rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 to municipal use within the Applicant's municipal service area. Prior to the Transfer, right 36-4233 allowed for the diversion of up to 0.20 cubic feet per second ("cfs") and 27.0 acre feet per year ("AFY") for domestic and irrigation use. Prior to the Transfer, right 36-7970 allowed for the diversion of up to 0.20 cfs and 27.6 AFY for domestic use. Prior to the Transfer, right 36-8332 allowed for the diversion of up to 0.04 cfs and 0.9 AFY for commercial use. Prior to the Transfer, right 36-8744 allowed for the diversion of up to 0.07 cfs and 3.2 AFY for domestic and irrigation use. Prior to the Transfer, right 36-17185 allowed for the diversion of up to 0.05 cfs and 2.4 AFY for domestic use. In total, rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 allowed for the diversion of up to 0.56 cfs and 61.1 AFY prior to approval of the Transfer.
3. When irrigation volumes are excluded, rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 collectively allowed for the diversion of up to 40.3 AFY prior to approval of the Transfer. Evidence in the water right file for right 36-7970 shows that up to 13.8 AFY of its 27.6 AFY domestic use volume may have been used for irrigation associated with the domestic use. When the 13.8 AFY of potential domestic irrigation use from right 36-7970 is subtracted from the 40.3 AFY combined total described above, 26.5 AFY may have been used for in-house domestic and commercial uses under rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 prior to approval of the Transfer.

4. The Transfer included a “Water Requirements Estimation” attachment that estimated the annual water demand for the “Wayside Café”, “Stinker Station”, “In House Use”, and “Consumptive Use for Irrigation”. These are the uses supplied by water diverted pursuant to rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185. The total of the Applicant’s estimate is 69.5 AFY, which is more than the total diversion volume of 61.1 AFY authorized by rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 prior to the Transfer. The “Water Requirements Estimation” attachment includes an estimate of historical consumptive water use for the irrigation use, but it has no estimate of the historical consumptive water use for the “Wayside Café”, “Stinker Station”, and “In House Use”. The total estimate for these three uses on the “Water Requirements Estimation” attachment is 52.8 AFY, nearly double the 26.5 AFY maximum volume limitation for the in-house domestic and commercial uses authorized by rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 prior to approval of the Transfer.
5. Approval of the Transfer added existing wells as points of diversion to water rights 36-4233, 36-7970, 36-8332, 36-8550, 36-8738, 36-8744, and 36-17185, changed the place of use of rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185, and changed the nature of use of rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 to municipal use. To prevent enlargement of the water rights changed to municipal use, the Department limited each to an estimate of its historical consumptive use. The Transfer approval limited the diversion and use of right 36-4233 to 0.20 cfs and 16.1 AFY, right 36-7970 to 0.20 cfs and 11.1 AFY, right 36-8332 to 0.04 cfs and 0.9 AFY (the total diversion rate and volume authorized prior to the Transfer approval), right 36-8744 to 0.07 cfs and 0.6 AFA, and right 36-17185 to 0.05 cfs with no annual volume allowance. Historically rights 36-4233, 36-8744, and 36-17185 were diverted through the same system. The Transfer approval included a condition limiting rights 36-4233, 36-8744, and 36-17185 to a combined total of 0.32 cfs and 16.7 AFA. The Transfer approval limited rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 to a combined total of 0.56 cfs and 28.7 AFY. The Department based the Transfer approval diversion volume limits on the historical consumptive use estimates for the irrigation use data outlined in the “Water Requirements Estimation” attachment included with the Transfer. Except for water right 36-8332, the Department gave no volume credit for non-irrigation uses because no estimate of the historical consumptive water use for non-irrigation uses was provided with the Transfer. The Department did not employ its normal practice of limiting the annual volume to the historic consumptive use volume when approving the nature of use change from commercial to municipal water use for water right 36-8332.
6. On January 30, 2024, the Applicant filed a Petition for Reconsideration (“Petition”) with the Department in connection with the Order. In its Petition, the Applicant asked the Department to amend the Transfer approval to approve the entire diversion volumes authorized by rights 36-17185, 36-4233, 36-8744, and 36-7929 (presumably right 36-7970) prior to the Transfer. The Applicant provided a declaration from the City of Heyburn City Administrator that the “homes and gas station in the area that are the subject of the Transfer have discharged wastewater into the City’s wastewater treatment plant since approximately July 6, 1982.” The Applicant cited a section of the Department’s 2022 *Amended Snake River Basin Moratorium Order* on applications to appropriate water in the Snake River Basin upstream of Swan Falls Dam. This section of the moratorium order states commercial and domestic water uses that result in the discharge of wastewater to a municipal or publicly owned treatment works will be considered consumptive.

7. Order item no. 5 of the Department's 2022 *Amended Snake River Basin Moratorium* Order states the moratorium does not apply to applications for transfer.
8. Idaho Code § 42-202B(1) states that "consumptive use" means that portion of the annual volume of water diverted under a water right that is transpired by growing vegetation, evaporated by soils, converted to nonrecoverable water vapor, incorporated into products, or otherwise does not return to the waters of the state.

CONCLUSIONS OF LAW

1. Rule 730.02.b of the Department's Rules of Procedure (IDAPA 37.01.01) states in pertinent part:

A party may file a petition for reconsideration of this preliminary order with the agency within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

2. The Applicant filed the Petition timely.
3. Rule 730.02.b of the Department's Rules of Procedure (IDAPA 37.01.01) authorizes the Department to reconsider the issuance of a preliminary order.
4. The provisions of Idaho Code § 42-222(1) authorize the Department to approve a transfer provided the change does not constitute an enlargement in use of the original right. Idaho Code § 42-222(1) further states the Department may consider consumptive use, as defined in Idaho Code § 42-202B, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right.
5. To ensure the proposed change to municipal use, which may be fully consumptive, does not result in an enlargement in use of the water rights, the Department should limit the Transfer approval to the volume of water historically consumed by the use of water pursuant to water rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185. Consistent with Idaho Code § 42-202B(1), consumptive use does not include water that returns to the waters of the state.
6. When approving the transfer, the Department did not properly consider the historic consumptive use in approving the nature of use change from commercial to municipal water use for water right 36-8332.
7. The Applicant's Transfer and Petition did not include evidence confirming the historic consumptive water use in the "Wayside Café", "Stinker Station", and "In House Use" (the domestic and commercial uses for rights 36-4233, 36-7970, 36-8332, 36-8744, and 36-17185 prior to the Transfer). The Department must limit the transferred volumes of these rights to ensure the proposed change to municipal use does not result in an enlargement in use of the water rights.
8. The Department should amend the Transfer No. 87938 approval.

ORDER

IT IS HEREBY ORDERED that the Petition is **GRANTED** pursuant to IDAPA 37.01.01.730.02.b.

IT IS FURTHER ORDERED that Transfer No. 87938 is **AMENDED** subject to the conditions set forth in Amended Transfer No. 87938 issued in conjunction with this order.

Dated this 20th day of February, 2024.



Corey Skinner
Southern Region Manager

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of February, 2024, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER GRANTING PETITION FOR RECONSIDERATION AND AMENDED TRANSFER APPROVAL**, to the person(s) listed below:

Documents Served: Preliminary Order Granting Petition for Reconsideration and Amended Transfer Approval, Transfer No. 87938

CITY OF HEYBURN
PO BOX 147
HEYBURN ID 83336-0147

MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702-7687

BROCKWAY ENGINEERING PLLC
GREG SULLIVAN
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301-3082

WATER DISTRICT 130
COREY KING
650 ADDISON AVE W STE 500
TWIN FALLS ID 83301-5858



Denise Maline
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.

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**AMENDED TRANSFER OF WATER RIGHT
TRANSFER NO. 87938**

This is to certify that: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

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>
36-17185	WR/LICENSE	12/22/1995	0.050 cfs	2.4 af	N/A	N/A	GROUND WATER
36-4233	WR/DECREED	3/1/1963	0.200 cfs	27.0 af	N/A	5.0	GROUND WATER
36-7970	WR/DECREED	3/10/1981	0.200 cfs	27.6 af	N/A	N/A	GROUND WATER
36-8332	WR/LICENSE	10/12/1987	0.040 cfs	0.9 af	N/A	N/A	GROUND WATER
36-8550	WR/LICENSE	5/29/1990	6.670 cfs	N/A	N/A	N/A	GROUND WATER
36-8738	WR/LICENSE	5/22/1995	3.300 cfs	N/A	N/A	N/A	GROUND WATER
36-8744	WR/LICENSE	12/22/1995	0.070 cfs	3.2 af	N/A	0.2	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>
36-17185	NO	NO	YES	YES	NO	YES
36-4233	NO	NO	YES	YES	YES	YES
36-7970	NO	NO	YES	YES	NO	YES
36-8332	NO	NO	YES	YES	NO	YES
36-8550	NO	YES	YES	YES	NO	NO
36-8738	NO	YES	YES	YES	NO	NO
36-8744	NO	NO	YES	YES	YES	YES

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>
36-17185	36-17185	0.050 cfs	0.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-4233	36-4233	0.200 cfs	16.1af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-7970	36-7970	0.200 cfs	11.1af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-8332	36-8332	0.040 cfs	0.0 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-8550	36-8550	6.670 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-8738	36-8738	3.300 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36-8744	36-8744	0.070 cfs	0.6 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		10.530 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

SUPPORT DATA

Transfer No. 87938

IN FILE # 36-4233

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**AMENDED TRANSFER OF WATER RIGHT
TRANSFER NO. 87938**

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 February, 2024.



Southern Region Manager



WATER RIGHT NO. 36-7970

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-7970 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 3/10/1981

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	01/01	to 12/31	0.200 cfs	11.1 af
			0.200 cfs	11.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENESE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNESE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNSE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSESE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENW	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNW	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in decree dated 3/20/1998.
6. This right does not grant any right-of-way or easement across the land of another.

Transfer No. 87938

WATER RIGHT NO. 36-7970

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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. 36-8332

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-8332 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 10/12/1987

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	01/01	to 12/31	0.040 cfs	0.0 af
			0.040 cfs	0.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in license dated 7/6/1992.
6. This right does not grant any right-of-way or easement across the land of another.

Transfer No. 87938

WATER RIGHT NO. 36-8332

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Rights 36-4233, 36-8332, 36-8744, and 36-17185 when combined shall not exceed a total diversion rate of 0.36 cfs and a total annual maximum diversion volume of 16.7 af.



WATER RIGHT NO. 36-4233

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-4233 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 3/1/1963

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	01/01	to 12/31	0.200 cfs	16.1 af
			0.200 cfs	16.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in decree dated 8/27/2001.
6. This right does not grant any right-of-way or easement across the land of another.

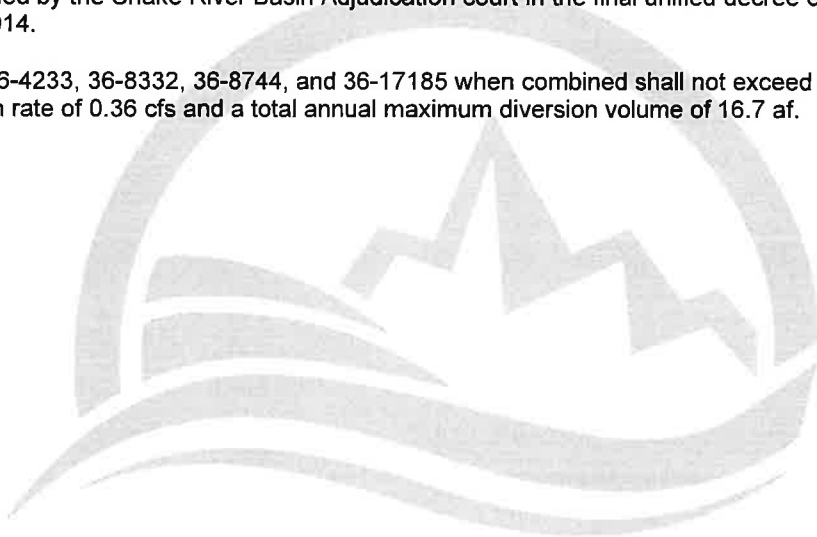
Transfer No. 87938

WATER RIGHT NO. 36-4233

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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.
10. Rights 36-4233, 36-8332, 36-8744, and 36-17185 when combined shall not exceed a total diversion rate of 0.36 cfs and a total annual maximum diversion volume of 16.7 af.



WATER RIGHT NO. 36-8550

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-8550 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 5/29/1990

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	01/01	to 12/31	6.670 cfs
			6.670 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSENE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENW	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNW	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in Transfer 73504 dated 1/3/2008.
6. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.

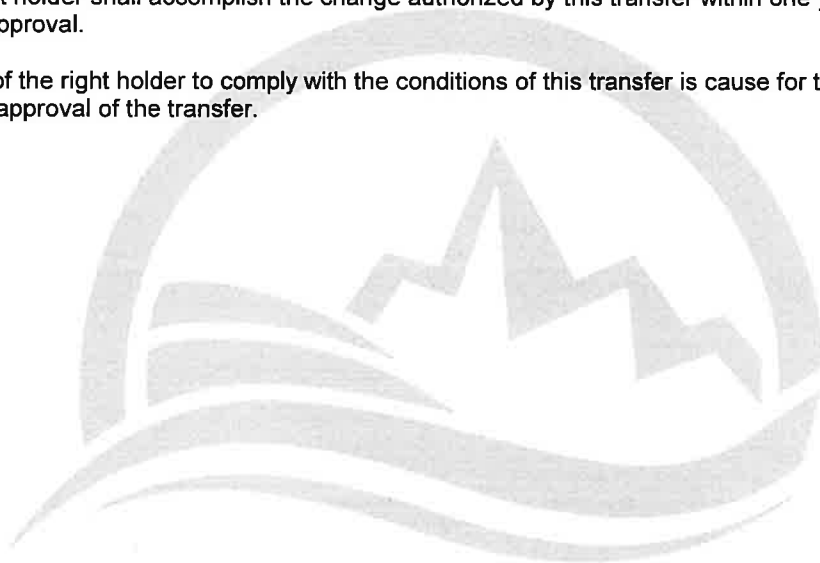
Transfer No. 87938

WATER RIGHT NO. 36-8550

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
8. This right does not grant any right-of-way or easement across the land of another.
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.



WATER RIGHT NO. 36-8738

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-8738 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 5/22/1995

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
MUNICIPAL	01/01	to 12/31	3.300 cfs 3.300 cfs

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENVNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSENE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENW	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENWNW	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. The daily diversion volume for non-domestic uses under this municipal right shall not exceed 2,500 gallons per use and the daily diversion volume for domestic uses under this right shall not exceed 13,000 gallons per dwelling in accordance with Section 42-111, Idaho Code.
4. The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
5. Irrigation of large projects such as parks, golf courses, or sports activities fields is not authorized under this right.
6. Use of water under this right will 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. 130.

Transfer No. 87938

WATER RIGHT NO. 36-8738

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. 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).
8. 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, this right retains its original priority for well locations authorized under this right as identified in Transfer 73504 dated 1/3/2008.
9. This right is for the use of trust water, and it is subject to review 20 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
10. When the minimum stream flow water rights in the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the consumptive uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
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.

WATER RIGHT NO. 36-8744

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-8744 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 12/22/1995

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	01/01	to 12/31	0.070 cfs 0.070 cfs	0.6 af 0.6 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSENE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNENW	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SEWNW	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in license dated 5/3/2019.
6. This right does not grant any right-of-way or easement across the land of another.

WATER RIGHT NO. 36-8744

As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Rights 36-4233, 36-8332, 36-8744, and 36-17185 when combined shall not exceed a total diversion rate of 0.36 cfs and a total annual maximum diversion volume of 16.7 af.



WATER RIGHT NO. 36-17185

As Modified by AMENDED Transfer No. 87938

In accordance with the AMENDED approval of Transfer No. 87938, Water Right No. 36-17185 is now described as follows:

Right Holder: CITY OF HEYBURN
PO BOX 147
HEYBURN, ID 83336-0147

Priority Date: 12/22/1995

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	01/01	to 12/31	0.050 cfs	0.0 af
			0.050 cfs	0.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SENENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 11 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	NWSE	Sec 15 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SWNE	Sec 22 Twp 10S Rge 23E	MINIDOKA County
GROUND WATER	SENE	Sec 9 Twp 10S Rge 23E	MINIDOKA County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Heyburn municipal water supply system as provided for under Idaho Law.
2. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
3. Use of water under this right will 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. 130.
4. 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).
5. 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, this right retains its original priority for well locations authorized under this right as identified in license 36-8744 dated 5/3/2019.
6. This right does not grant any right-of-way or easement across the land of another.

WATER RIGHT NO. 36-17185
As Modified by AMENDED Transfer No. 87938

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Rights 36-4233, 36-8332, 36-8744, and 36-17185 when combined shall not exceed a total diversion rate of 0.36 cfs and a total annual maximum diversion volume of 16.7 af.

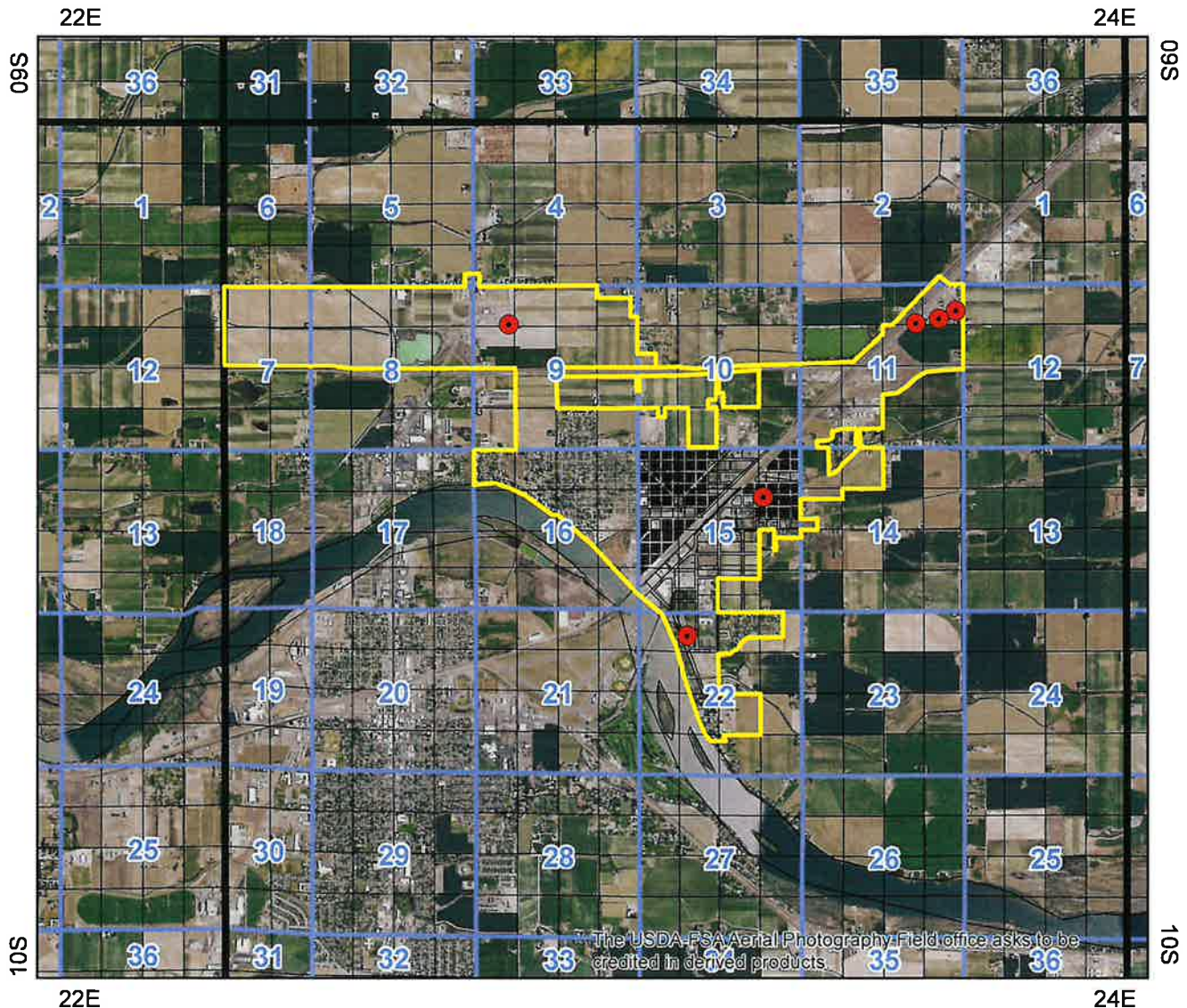


State of Idaho
Department of Water Resources

Attachment to AMENDED Transfer # 87938

36-4233, 36-7970, 36-8332, 36-8550, 36-8738, 36-8744, and 36-17185

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



● Point of Diversion

Water Service Area Boundary

Townships

PLS Sections

Quarter Quarters

