STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 89417

This is to certify that: DARRELL L AGENBROAD
27161 DAIRY RD
GRAND VIEW, ID 83624-5044

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

Summary of Water Rights Before the Proposed Changes

Water Right	Origin/Basis	Priority Date	Diversion Rate	Diversion Volume	Acre Limit	Total Acres	Source
2-10436	WR/DECREED	2/8/1979	2.920 cfs	657.0 af	146.0	184.0	SNAKE RIVER
2-7168A	WR/DECREED	8/30/1974	3.080 cfs	770.0 af	N/A	154.0	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
2-10436	NO	NO	YES	NO	NO	NO
2-7168A	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

Existing Right	New No. (Changed Portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
2-10436	2-10436	2.920 cfs	657.0 af	146.0	184.0	N/A	N/A	N/A	N/A	N/A
2-7168A	2-7168A	3.080 cfs	770.0 af	154.0	184.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		**1.300 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 10 day of March, 2025.

Cody Parker, Water Rights Supervisor

SUPPORT DATA
IN FILE # 2-7168A

Transfer No. 89417

WATER RIGHT NO. 2-7168A

As Modified by Transfer No. 89417

In accordance with the approval of Transfer No. 89417, Water Right No. 2-7168A is now described as follows:

Right Holder: DARRELL L AGENBROAD
27161 DAIRY RD
GRAND VIEW, ID 83624-5044

Priority Date: 8/30/1974

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

BENEFICIAL USE	From		To	Diversion Rate	Diversion Volume
IRRIGATION	03/15	to	11/15	3.080 cfs	770.0 af
				3.080 cfs	770.0 af

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L9 (SESW) Sec 34 Twp 05S Rge 04E OWYHEE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06S	03E	4											36.0						36.0
06S	03E	5													35.0	39.0	37.0	37.0	148.0

Right Acre Limit: 154.0
POU Total Acres: 184.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 154 acres within the authorized place of use in a single irrigation season.
2. Rights 2-10436 and 2-7168A when combined shall not exceed the irrigation of 184 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 place of use.
4. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 6/15/2009.
5. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 02.

WATER RIGHT NO. 2-7168A

As Modified by Transfer No. 89417

CONDITIONS OF APPROVAL

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).

7. The following rights are diverted through point(s) of diversion described above: 2-7059, 2-7060B, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-10181, 2-10315, 2-10316, 2-10435, and 2-10436.

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

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

10. 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. 2-10436

As Modified by Transfer No. 89417

In accordance with the approval of Transfer No. 89417, Water Right No. 2-10436 is now described as follows:

Right Holder: DARRELL L AGENBROAD
27161 DAIRY RD
GRAND VIEW, ID 83624-5044

Priority Date: 2/8/1979

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

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
IRRIGATION	03/15	to 11/15	2.920 cfs	657.0 af
			2.920 cfs	657.0 af

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER L9 (SESW) Sec 34 Twp 05S Rge 04E OWYHEE County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
06S	03E	4											36.0						36.0
06S	03E	5													35.0	39.0	37.0	37.0	148.0

Right Acre Limit: 146.0
POU Total Acres: 184.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 146 acres within the place of use described above in a single irrigation season.
2. Rights 2-10436 and 2-7168A when combined shall not exceed the irrigation of 184 acres.
3. Rights 2-10435, 2-10436, 2-7059, 2-7060B, 2-10181, 2-10315, 2-10316, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7168C, 2-7237A, and 2-7275 when combined shall not exceed a total diversion rate of 48.44 cfs.
4. 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.
5. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 06/15/2009.

MAR 10 2025

WATER RIGHT NO. 2-10436

As Modified by Transfer No. 89417

CONDITIONS OF APPROVAL

6. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 02.

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. The following rights are diverted through point(s) of diversion described above: 2-7059, 2-7060B, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-10181, 2-10315, 2-10316, 2-10435, and 2-10436.

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.

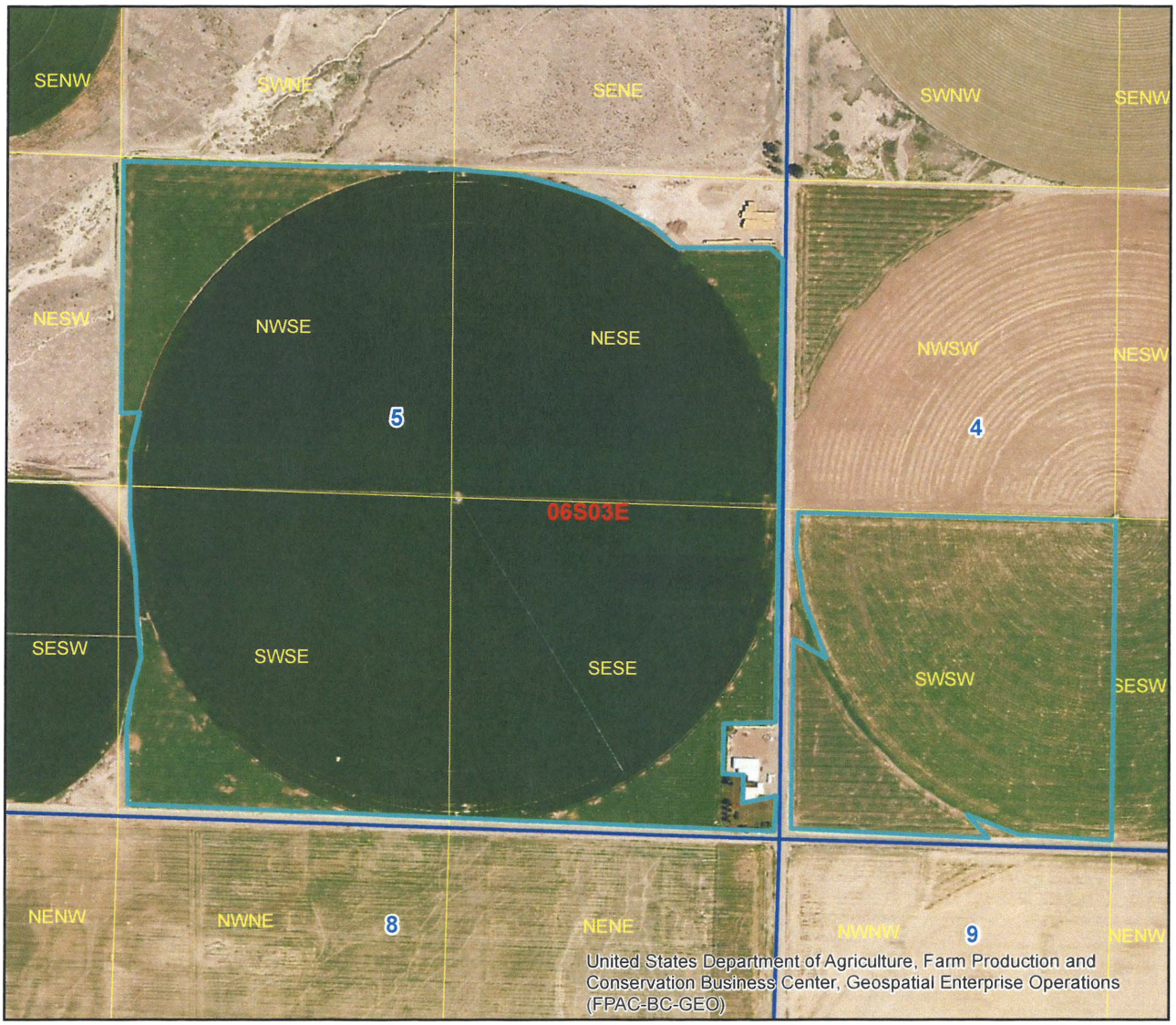
11. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 89417

Water Right(s): 2-7168A, 2-10436

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



0 0.075 0.15 0.3 Miles

- Transfer POU
- Township/Range
- Sections
- QQ

N

Rev. 10/24

RECEIVED
OCT 25 2024
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

GENERAL INFORMATION AND INSTRUCTIONS

Pursuant to Section 42-222(1), *Idaho Code*, a transfer application may be filed to change the point of diversion, place of use, period of use, or nature of use of all or part of an established water right. Any person proposing to make such a change is required to file a transfer application with the Department. "Such application shall be upon forms furnished by the department and shall describe the [water right] to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee." *Idaho Code* § 42-222(1).

The Department has developed this application form to assist applicants in satisfying the requirements of Section 42-222(1). This application form requests information about the applicant's authority to file (Part 1), information about the current elements of the water right(s) to be changed (Part 2), information about the changes which are proposed (Part 3), information about the validity of the water right(s) and the effects of the proposed changes (Part 4), and a confirmation that the information provided is accurate (Part 5).

The applicant or their representative must provide a response for all applicable questions, any additional information required, and the proper filing fee before this application will be considered complete. If an application is incomplete or more information is required, the Department will notify the applicant or representative and allow time for the application to be completed. An application that remains incomplete will be returned to the applicant and the filing fee will be refunded.

An application for transfer is limited to the changes proposed for a single water distribution system. A proposal to change two or more separate water distribution systems, that will remain separate after the transfer, must be filed as separate applications. Applicants may provide additional pages to supplement their responses to the questions posed on this application form. Supplemental forms for listing additional water rights, points of diversion, or places of use can be found on the Department's website (idwr.idaho.gov).

If you need assistance understanding the questions on this form, generating current water right reports, determining legal descriptions, or accessing water measurement records feel free to contact the nearest regional office of the Department.

PART 1 – CONTACT INFORMATION, OWNERSHIP RECORDS, AUTHORITY TO FILE

Name(s) of Applicant(s) Darrell Agenbroad

Mailing Address 27161 Dairy Road Grand View Idaho 83624

Email* dlagenbroad@yahoo.com **Phone** 208-598-5781

Name of Representative (if any) Greg Sullivan

Mailing Address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301

Email* greg.sullivan@brockwayeng.com **Phone** 207-736-8543

*If an email address is provided, Department staff will use email as the primary method for corresponding with the applicant and representative about the application.

A. Representative. If the representative is authorized to sign or amend the application on behalf of the applicant, attach documents (such as the Power of Attorney) confirming that authority. Label documents as Attachment 1A.

B. Current Owner. If the applicant is not the current owner of record for all water rights included in this application, attach documents showing that the applicant has the authority to make the proposed changes. Label documents as Attachment 1B.

C. Updating Ownership Records. Applicants needing to update the ownership records for any of the water rights included in this application must attach documents supporting the ownership change. Such documents must trace ownership of the subject water rights or the current place of use for the subject water rights from the current owner of record for the water rights to the applicant. Label documents as Attachment 1C.

D. Business Entities. If the applicant is a business entity (corporation, LLC, partnership, trust, etc.), is the business entity currently registered with the state of Idaho?

☐ Yes. If this application is signed by someone other than a person listed on the most recent annual report filed with the Idaho Secretary of State, attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

☐ No. Attach documents confirming the authority of the signer to sign on behalf of the business entity. Label documents as Attachment 1D.

E. Approval of Irrigation Delivery Entity. Section 42-108, *Idaho Code*, states that a transfer application proposing to change water rights held by an irrigation company or district requires the consent of the irrigation entity. If this application proposes to change water rights held by an irrigation entity, attach a letter of consent from the entity (labeled as Attachment 1E) or have an authorized representative of the entity co-sign the application.

F. Encumbered Properties. If the current place of use for the water rights included in this application is subject to a lien, deed of trust, mortgage, or contract and the application proposes to change the nature of use of the water rights or to move water rights off the current place of use, attach a statement of consent for the change signed by the lien holder, trustee, mortgagor or contract holder. Label documents as Attachment 1F.

PART 2 – WATER RIGHTS BEFORE PROPOSED CHANGES

A. Current Water Rights. For each water right proposed to be changed, attach a current water right report obtained from any Department office or from the Department's website (idwr.idaho.gov). Label water right reports as Attachment 2A.

B. Map of Current System. Attach a map of the current point(s) of diversion and place(s) of use for the water rights to be changed. The map should clearly depict the elements of the water rights to be changed. For example, if this application proposes to change the point of diversion for a water right, the map should display the current location of the point of diversion. For irrigation water rights, the map should also identify the location of the irrigated acres to be changed. Label map as Attachment 2B.

C. Current Location of Irrigated Acres. If this application proposes to change the place of use or nature of use for only a portion of an irrigation water right, use the following table to identify the current location of the irrigated acres to be changed. If additional pages are required, label additional pages as Attachment 2C. If this application proposes to change or rearrange the entire place of use for irrigation water right(s), skip to Part 3.

☐ **N/A. This application does not propose to change the place of use or nature or use of an irrigation water right or this application proposes to change the place of use or nature of use for an entire irrigation right.**

Current Location of Irrigated Acres to be Changed

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	03E	5												40					40

Total Irrigated Acres to be Changed: 40.0

PART 3 – DESCRIPTION OF PROPOSED CHANGES

A. Purpose of Transfer. Section 42-222(1), *Idaho Code*, states that transfer applications may only be filed to change the point of diversion, place of use, period of use, or nature of use of an established water right. Section 42-248(3), *Idaho Code*, authorizes water right ownership changes to be included on transfer applications. Identify the changes proposed in this application:

- ☐ Change point(s) of diversion
- ☐ Add point(s) of diversion
- ☐ Change nature of use
- ☑ Change place of use
- ☐ Change period of use
- ☐ Update water right ownership records

B. Proposed Changes. Describe the proposed changes in narrative form:

The irrigation place of use will be changing with this transfer. The POD, beneficial use, period of use and ownership of these water rights will not be changing.

C. Summary of Proposed Changes.

1. Water Rights. Use the following table to list all water rights, or portions thereof, that are proposed to be changed as they would appear after the proposed changes. In the Amount column, list the volume (in acre-feet) for storage uses or the rate (in cubic feet per second) for all other uses.

All	Part	Right Number	Amount (cfs/af)	Nature of Use	Period of Use	Source
☐	☑	2-7168A	0.84/211	Irrigation	3/15 to 11/15	Snake River
☐	☑	2-10436	0.80/180	Irrigation	3/15 to 11/15	Snake River
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	
☐	☐				to	

2. Total Amounts. Calculate the total quantity, in cfs or af, of water rights that are proposed to be changed through this application. For an application proposing to only change the place of use for irrigation rights, the total quantity of water is calculated by comparing the current place of use to the proposed place of use, summing the number of acres increased in each legal subdivision, and quantifying the proportional amount of diversion rate for the increased acres. For an application proposing to change or add points of diversion for irrigation or any other beneficial use, the total amount is the total diversion rate for the changed portion of the right.

Total Amount of Water Rights Proposed to be Changed: 1.3 **cfs and/or** 310 **af.**

3. Point(s) of Diversion. Use the following table to list all the proposed points of diversion for the water rights to be changed, including any current points of diversion that will continue to be used as part of the proposed water distribution system.

The legal description for the proposed point(s) of diversion must be to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System (PLSS). PLSS information is typically available from USGS topo maps, property deeds, tax bills or various mapping tools on the Department's website.

For points of diversion within platted subdivisions, list the lot and block number in the "Diversion Name/Number" column. An application proposing an injection into a stream and a re-diversion from that stream must list the source for the original diversion as the source for the injection and re-diversion points. If this application proposes construction of a new diversion structure (for example, a new ground water well or a new pump station on a creek), please indicate the status in the appropriate column.

☑ **N/A. This application does not propose to add or change any points of diversion.**

Proposed Points of Diversion

New?	Twp	Rge	Sec	Lot	1/4	1/4	1/4	County	Source	Diversion Name/Number

4. Place of Use. The proposed place of use must be described to the nearest 40-acre subdivision (QQ) or U.S. Government Lot of the Public Land Survey System. Government lot numbers can be noted in parenthesis below the approximate quarter-quarter location of the government lot. For water rights held by irrigation districts, municipal providers or irrigation companies, the proposed place of use may be generally described as authorized by Sections 42-202B, 42-219 and 42-222B, *Idaho Code*.

☐ **N/A. This application does not propose to change a place of use.**

Proposed Place of Use

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	03E	4											36						36.0
06S	03E	5													35	39	37	37	148.0

Total Irrigated Acres: 184.0

5. Map of Proposed System. Attach a map showing the location of the points of diversion, reservoirs, dams, canals, ditches, pipelines and other works proposed to be used to divert and convey water. Also show the location of the place of use, including any lands to be irrigated. The map should delineate the legal subdivisions including townships, ranges, sections, quarter-quarters and government lots. Label map as Attachment 3C.

PART 4 – ADDITIONAL INFORMATION

Section 42-222(1), *Idaho Code*, establishes the criteria used to evaluate transfer applications. An applicant bears the burden of demonstrating that the water right to be changed is a valid right, that the proposed use is a beneficial use, and that the proposed changes will not injure other water rights, will not enlarge the use of the original rights, are in the local public interest, and are consistent with the conservation of water resources within the state of Idaho. To satisfy this burden, an applicant must provide sufficient data and information for the Department to evaluate the effects of the proposed change. The Department may deny an application if the

applicant fails to provide sufficient data and information to determine whether the criteria from Section 42-222(1) are satisfied.

In addition to the information requested in Parts 1-3 of this application, the following information must be provided for an application to be considered complete. Department staff may request additional information or clarification as the application is processed.

A. Validity of Water Rights

1. If one or more of the water rights proposed to be changed is a statutory claim, established pursuant to Section 42-248, *Idaho Code*, attach evidence supporting the priority date claimed. Label documents as Attachment 4A-1. For statutory claims, the Department may conduct a field inspection as part of the application review process to evaluate the elements listed on the statutory claim.

2. Has any portion of the water right(s) proposed to be changed undergone a period of five or more consecutive years of non-use?

☐ Yes. Attach a statement describing the portion of the right(s) that were not used and the length of time of the non-use. In addition, identify any exception or defense to forfeiture and provide a detailed description as to why the water rights have not been lost and forfeited for non-use. Label documents as Attachment 4A-2.

☑ No.

B. Injury to Other Water Rights

1. Identify any other water right(s) diverted at the current point(s) of diversion.

N/A

2. Identify any other water right(s) diverted at the proposed point(s) of diversion.

N/A

3. Is the proposed point of diversion within a state water district? ☒ Yes. Water District # 02. ☐ No.

4. Are the proposed points of diversion equipped with Department-approved measuring devices? ☑ Yes. ☐ No.

5. If this application proposes to divert a surface water right from a ground water well, attach a technical analysis evaluating the hydraulic connection between the proposed ground water point of diversion and the source of water listed on the right to be changed. Label technical analysis as Attachment 4B-5.

6. If this application proposes to change the point of diversion for a ground water right in the Eastern Snake Plain Aquifer (ESPA), attach a technical analysis of the anticipated depletions to reaches of the Snake River that are hydraulically connected to the ESPA using the Department's current ground water model for the ESPA. The technical analysis must evaluate depletion in a time-series format, evaluating impacts at transient and steady state time steps. To assist applicants in preparing the required technical analysis, the Department has developed a transfer tool interface for the ESPA Model. The transfer tool and user instructions can be downloaded from the Department's website (idwr.idaho.gov). If the proposed and current points of diversion are in the same or adjacent model cells no technical analysis is required, unless specifically requested by the Department. Label technical analysis as Attachment 4B-6.

C. Enlargement in Use

1. Identify any other water rights used at the current place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

None

2. Identify any other water rights used at the proposed place of use, including the number of shares in a canal company or acres assessed by an irrigation district.

None

3. If this application proposes to change the place of use or nature of use for irrigation water rights, will the current place of use, for the portion of the right to be changed, continue to be irrigated?

☐ Yes. Identify the water right(s) to be used for the continued irrigation.

☐ No. The place of use for the portion to be changed will no longer be irrigated.

☑ N/A. The application does not propose to change the place of use for irrigation rights.

4. If this application proposes to change the place of use for an irrigation water right that is combined with other irrigation rights at the current place of use but does not propose to change the place of use for all the stacked irrigation rights, attach evidence of the historical consumptive use occurring under all water rights at the current place of use. For irrigation rights, this should include at least five years of diversion data and/or crop data and estimates of evapotranspiration. Label the information as Attachment 4C-4. Evapotranspiration data may be available on the Department's website (http://et-idwr.idaho.gov)

5. If the application proposes to change the nature of use for a water right, attach evidence of the historical consumptive use occurring under the portion of the water right to be changed. For irrigation rights, this should include diversion data, crop data and estimates of evapotranspiration. Label the information as Attachment 4C-5. Evapotranspiration data may be available on the Department's website (http://et-idwr.idaho.gov)

6. If the application proposes to change the nature of use of a water right to municipal use for reasonably anticipated future needs, complete the form titled "Municipal Water Right Application Checklist" found on the Department's website (idwr.idaho.gov). Label the form as Attachment 4C-6.

7. To your knowledge, are any portions of the water rights proposed to be changed:

Yes	No	
☐	☑	currently leased to the Water Supply Bank? If yes, complete the form titled "Application for Transfer of Water Right Attachment WSB" found on the Department's website (idwr.idaho.gov). Label the Form as Attachment 4C-7.
☐	☑	currently used in a mitigation plan limiting the use of water under the right?
☐	☑	subject to an agreement not to divert (CREP)?
☐	☑	currently enrolled in a federal set-aside program (CRP)?

D. Local Public Interest

The department must consider whether the proposed changes are in the local public interest as defined in Section 42-202B(3), *Idaho Code*. Some of the local public interest factors that may be considered in conjunction with a transfer application are (1) Recreation, fish, and wildlife impacts, (2) Water quality or contamination concerns, (3) Local and state ordinances, regulations, or policies related to water use, (4) Goals, requirements and limits set forth in the State Water Plan. If you choose to provide information about local public interest factors, label the information as Attachment 4D.

E. Conservation of Water Resources

Describe the diversion works and water delivery system. This may include sizes and dimensions of pumps, pipelines, headgates, ditches, dams, impoundments and irrigation equipment.

Existing POD, headgate, pumps and mainlines.

PART 5 – FILING FEE AND SIGNATURE

A. Filing Fee. Filing fees for transfer applications are set forth in Section 42-221.O, *Idaho Code*. A table summarizing the filing fees for transfer applications is also found on the Department's website (idwr.idaho.gov). Any application proposing to change the nature of use for one or more rights requires an additional filing fee of $250. Applications proposing to update the ownership records for water rights must also include the appropriate filing fee to update the ownership records. For any application relying on the filing fee set forth in Section 42-221.O.8, *Idaho Code*, attach a statement describing how the application qualifies under Section 42-221.O.8. Label documents as Attachment 5A.

B. Affidavit of Applicant or Representative:

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Representative*	Print Name and Title, if applicable	Date
Darrel Agenbroad	Darrel Agenbroad owner	10-16-24

*If water rights included in this application are owned by multiple people or entities, each owner must sign the application form.

Attachment 2A

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 2-7168A

Current Owner: DARREL L AGENBROAD

Priority Date: 8/30/1974

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/15 to 11/15	3.08 CFS	770 AF
	Total Diversion	3.08 CFS	770 AF

Location of Point(s) of Diversion

SNAKE RIVER L9(SE1/4SW1/4) Sec. 34, Twp 05S, Rge 04E B.M.
OWYHEE County

Place of Use

IRRIGATION Within OWYHEE County

T06S R03E S4		SWSW	38.00	T06S R03E S5		SESW	40.00
T06S R03E S5		SWSE	38.00	T06S R03E S5		SESE	38.00

Total Acres: 154

Conditions of Approval:

1.	F06	The following rights are diverted through point(s) of diversion described above: 2-7059, 2-7060B, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-10181, 2-10315, 2-10316, 2-10435, and 2-10436.
2.	X35	Rights 2-10436 and 2-7168A when combined shall not exceed the irrigation of 184 acres.
3.	S47	The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
4.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 6/15/2009

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 2-10436

Current Owner: DARREL L AGENBROAD

Priority Date: 2/8/1979

Origin: Water Right

Status: Active

Basis: Decreed

Source	Tributary
SNAKE RIVER	COLUMBIA RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/15 to 11/15	2.92 CFS	657 AF
	Total Diversion	2.92 CFS	657 AF

Location of Point(s) of Diversion

SNAKE RIVER L9(SE1/4SW1/4) Sec. 34, Twp 05S, Rge 04E B.M.
OWYHEE County

Place of Use

IRRIGATION Within OWYHEE County

T06S R03E S5	SESW	40.00	T06S R03E S5	NESE	35.00
T06S R03E S5	NWSE	33.00	T06S R03E S5	SWSE	38.00
T06S R03E S5	SESE	38.00			

Total Acres: 184

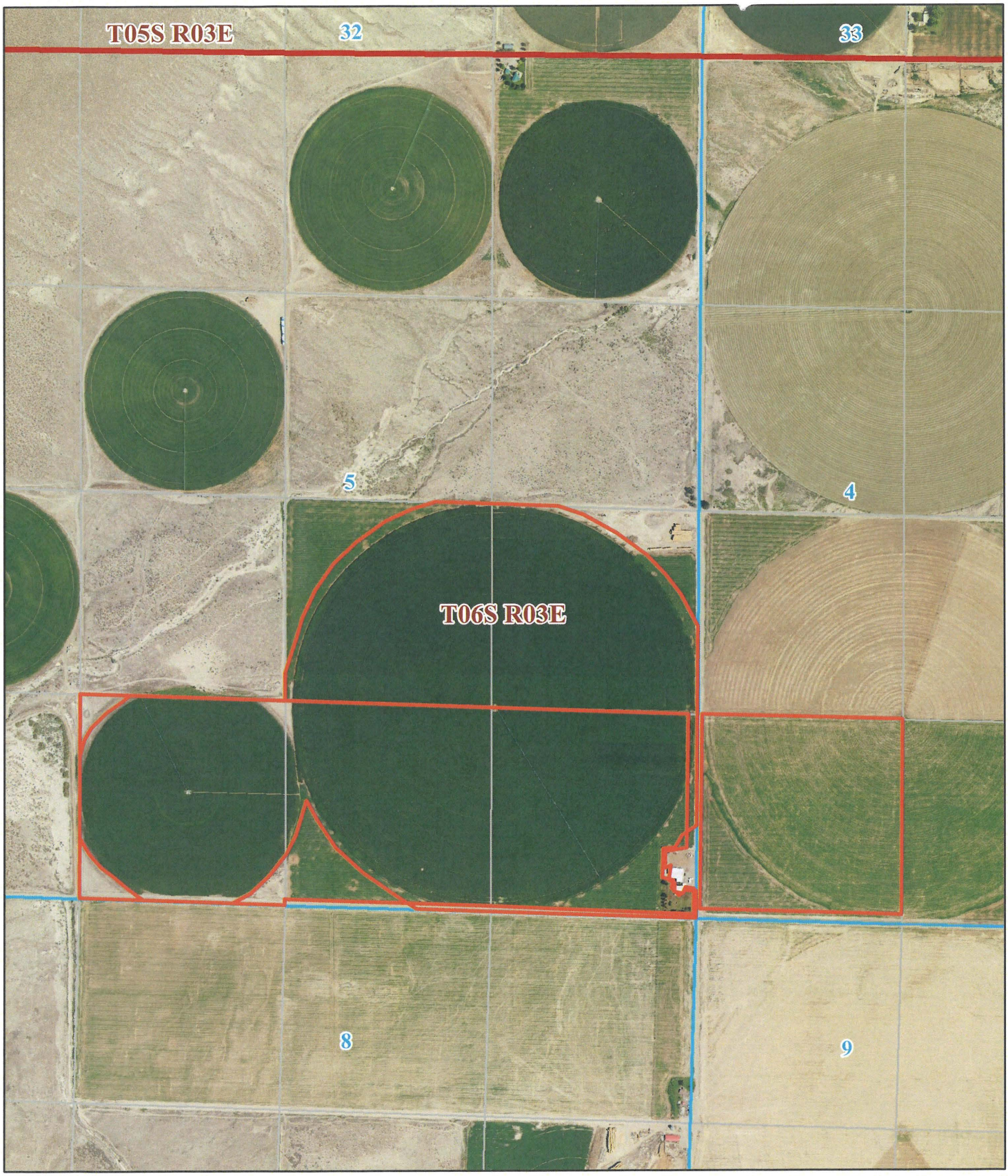
Conditions of Approval:

1.	T08	Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
2.	X61	The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval or originating approval/SRBA partial decree date.
3.	T07	The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4.	T19	Pursuant to Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
5.	X35	Rights 2-10436 and 2-7168A when combined shall not exceed the irrigation of 184 acres.
6.		Rights 2-10435, 2-10436, 2-7059, 2-7060B, 2-10181, 2-10315, 2-10316, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7168C, 2-7237A, and 2-7275 when combined shall not exceed a total diversion rate of 48.44 cfs.
7.	01M	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.
8.	R65	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.
9.	X27	This right is limited to the irrigation of 146 acres within the place of use described above in a single irrigation season.
10.	F06	The following rights are diverted through point(s) of diversion described above: 2-7059, 2-7060B, 2-7061, 2-7062, 2-7064, 2-7168A, 2-7168B, 2-7237A, 2-7275, 2-10181, 2-10315, 2-10316, 2-10435, and 2-10436.

Decreed Date: 6/15/2009

Attachment 2B

Path: F:\Projects\Agenbroad, Darrel\ArcGis\2024 Snake River Water Transfe



0 500 1,000 Feet

DARREL AGENBROAD

NAIP 2023 AERIAL
POU CHANGE
2-7168A AND 2-10436

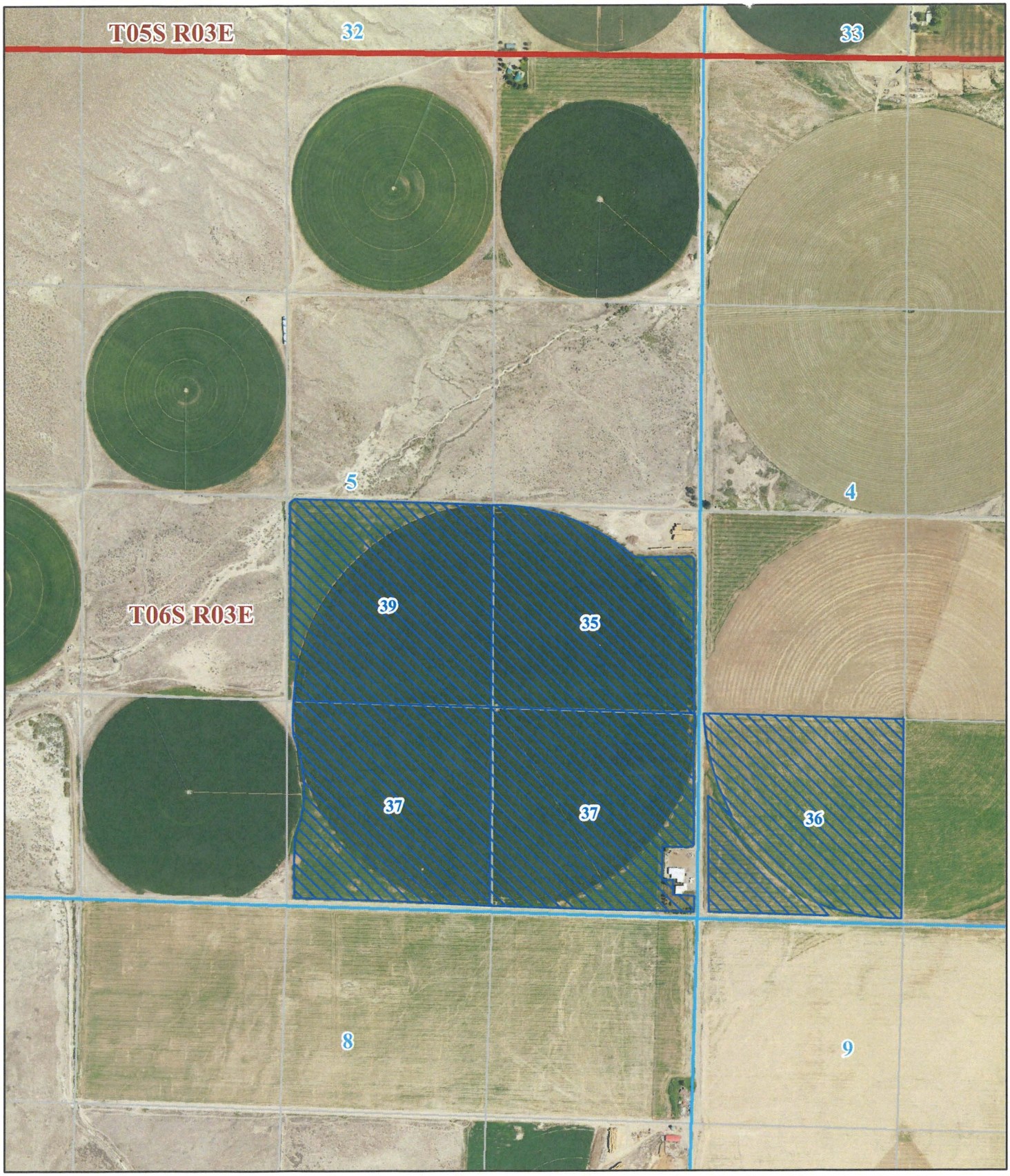
Legend
Current_POU_2-7168A_&_2-10436

N

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 10/14/2024

Attachment 3C

Path: F:\Projects\Agenbroad, Darrel\ArcGis\2024 Snake River Water Transfer...



0 500 1,000 Feet

DARREL AGENBROAD

NAIP 2023 AERIAL
POU CHANGE
2-7168A AND 2-10436

Legend
Proposed_POU_2-7168A_&_2-10436

N

BROCKWAY ENGINEERING, PLLC.
GWS - Date: 10/14/2024

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

March 10, 2025

DARRELL L AGENBROAD
27161 DAIRY RD
GRAND VIEW ID 83624-5044

Re: Transfer No: 89417
Water Right No(s).: 2-7168A , 2-10436

Transfer Approval Notice

Dear Water Right Holder:

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

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the

Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 334-2190.

Sincerely,

Susan E Hobson

Susy Hobson
Technical Records Specialist

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2025 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.: 89417
Water Right No(s).: 2-7168A , 2-10436

DARRELL L AGENBROAD
27161 DAIRY RD
GRAND VIEW ID 83624-5044

Susan E Hobson

Susy Hobson
Technical Records Specialist

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.

Outlook

RE: Watermaster Comments Transfer No 89417

From Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Date Thu 1/23/2025 11:09 AM
To Parker, Cody <Cody.Parker@idwr.idaho.gov>
Cc Erling, Jes <Jes.Erling@idwr.idaho.gov>

1 attachment (4 MB)
2-7168_backfile.PDF;

Cody,

No worries I figured this was a can of worms I was opening, but it needs opened. I would be like to know legals opinion and how to proceed.

After reading through some of the material a bit more, I think that water right 2-7168 (parent to 2-7168A and 2-7168B) was the originator of that system capacity of 48.44. See attached pg.16-23. Then the right was split, and the condition was not issued. One could argue that condition should have been applied to the splits.

I believe 2-7279B has that condition also since 2-7279 was at least one of the original rights with the condition on the decree. So, there are three rights (2-10435, 2-10436, 2-7279B) that have the condition at the decree resulting from the splits. I will note that on water right 2-10436, water right 2-7168C appears in the water right suite of the 48.44 cfs but nowhere else (even on 2-7168C).

Additionally, It appears that 2-7157C has the condition and was licensed in 2005 way after these others and not included in the conditions on 2-10435, 2-10436, 2-7279B (so now the total cfs is 61.61)

After reading the backfiles, I think you are right in the logic except to include ... and 2-7279B and possibly 2-7157C which would then cut all of 2-10435, 2-10436, 2-7279B, 2-7275 and partially 2-7237 A.

Specifically, my concern is that water rights 2-10435, 2-10436, 2-7279B while face value is 6.9, they are collectively only worth 1.1 cfs. Knowing that all the rights are essentially being used at the same time (assuming that most or all the water rights in the WSB have been rented and are being used in whole.) how should I explain to Mr. Agenbroad mid-season that once I have confirmed all the listed rights are being used, that he only has 1.1 cfs on those water rights? So, approving a transfer of water right 2-10436 with that condition seems appropriate, but does he know how that affects him and does is really cover the enforcement acreage? I just want to help Mr. Agenbroad and set him up for success and to stay in compliance with the conditions of his rights.

Ultimately the condition did not originate from this transfer, but both rights involved in this transfer are a part of that condition. Since this transfer is a result of an enforcement case and is a means for Mr. Agenbroad to become compliant with his water right use. I feel this issue should be resolved before any water rights with

that condition at decree (possibly including 2-7168A) have allocation processes approved. It seems that while this is very inconvenient, this is the most opportune time to figure this out.

If you disagree and think this should move forward and be approved as you stated, I will agree to the approval, with a caveat that legal explain to me how to properly administer this set of water rights.

Thank you so much for working with me on this. I want to get a good handle on the Bybee's water rights they have been challenging in the past. Now that it is my reasonability, I want to do my best to make sure I administer the water rights correctly.

Kellie Smith
IDWR Water Distribution
(208) 287-4842

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Wednesday, January 22, 2025 5:01 PM
To: Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Subject: Re: Watermaster Comments Transfer No 89417

This is a great question and the issue I know is particularly problematic at the Bybee, especially when considering the water supply bank transactions. The short answer to your question is I don't know. The reason I don't is because IDWR's treatment of the combined limits coming out of the adjudication has been inconsistent.

Ideally, what I would like to say is that the full extent and limitations of a water right are described on the face of that particular water right. That would mean the combined limit only applies to the two water rights (2-10435 and 10436) whose decrees included that limit. In that case the other 13 water rights would receive their 47.34 cfs before these two rights and these two could take up to 1.1 cfs and any of the 47.34 cfs that wasn't being using at a given time by the other 13 water rights.

The other option is that even though the other 13 rights don't have this condition, they are still bound by it. This makes things infinitely more difficult for obvious reasons.

Ultimately it comes down to a legal question that I am not qualified to answer. It seems wrong to me now to add the condition to 2-7168A through the transfer since it was not included on its decree, as I did in the draft I sent you. So I will remove that from 2-7168A before approval. In that case, it seems like the remaining questions aren't related to the changes proposed by the transfer(since that condition did not result from this transfer). So unless you have other concerns I think it is ok to approve. I do agree that this question needs to be answered though. I will send an email to the legal dept to try to get an answer on this. I'll be sure to copy you and hopefully we can get to the bottom of it.

Thanks!

Cody

From: Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Sent: Wednesday, January 22, 2025 12:40 PM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Subject: RE: Watermaster Comments Transfer No 89417

Cody,

Thanks for the details. My remaining question is still...

I get what the combined limit means on paper, but how does that translate to on the ground administration? None of the water rights in this limited group have individual rate limits. They are generally all on or all off. If it is up to the water users nobody would limit themselves. How do we choose who is limited? If the origination was on water right 2-7279A and the products of the splits (2-10436 for sake of this transfer but also 2-10435 also owned by Mr. Agenbroad) would it just be applied to those water rights? Or could the limit have been to others also at adjudication?

If the watermaster puts 48.44 cfs to the headgate for these rights, but the individual users take what their face value gives on their water rights (assuming none are in the bank) that total diverted would be 58.11 cfs. (disregard the 50.64 I mentioned prior).
A lot of these rights are in the bank so the suite of these rights would be 24.47 cfs authorized for the upcoming season. Water in the bank from these rights have been rented in whole or part so they are being used. Was that limit continued through the rental process?

I am not sure if I am posing my question very well, but how can we apply a rate limit to a suit of rights, but none have individually stated limits? Since 1. two of these rights are involved in the transfer, 2. two more owned by the applicant are also in the suite limited to the 48.44, and 3. this transfer is a result of violation, I was hoping for some clarity. How as a watermaster can I make sure that the water user are not taking too much?

All the other questions you have answered thank you.

Kellie Smith
IDWR Water Distribution
(208) 287-4842

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Tuesday, January 21, 2025 3:53 PM
To: Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Subject: Fw: Watermaster Comments Transfer No 89417

I forgot to attach the combined limit worksheet in my previous email.

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Tuesday, January 21, 2025 3:24 PM
To: Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Subject: Re: Watermaster Comments Transfer No 89417

Hey Kellie,

Thanks for the reply.

To answer your first question, the 48.44 cfs was a limit that was decreed by the SRBA court. It was included on at least water right 2-7279A, which was later split into 2-10435 and 2-10436. The condition was carried forward during the split. I'm not sure I fully understand the question posed in item 1. But, I will say that the combined limit means they can't each use their full rate at the same time. If all the diversion rates added together equals 50.64 cfs but the full suite of rights listed in the condition can only divert 48.44 cfs then someone from this list can't be using their right in full at the same time as the others. For a more comprehensive treatment of the combined limits related to these water rights see the attached excel workbook.

The application characterizes the proposed POU as "measured acres". I'm not sure I have any reason to believe they won't reduce the irrigation in the SWSW of Section 4 to 36 acres from 38.

Regarding the acres in the SESW of Sec 5, following an approval of the transfer the water rights would not authorize irrigation in that location. They will either need to dry up those acres or continue to rent water, but the water rights will not authorize irrigation in that area.

I hope this helps. Please let me know if you have any other questions.

Thanks

Cody

From: Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Sent: Tuesday, January 21, 2025 9:25 AM
To: Parker, Cody <Cody.Parker@idwr.idaho.gov>; Erling, Jes <Jes.Erling@idwr.idaho.gov>
Subject: RE: Watermaster Comments Transfer No 89417

Cody,

Rob retired in October, and I am now the WM for 02. I am reviewing this transfer and have a few questions.

1. Condition of approval 3. For both rights, they say there is a limited diversion rate (in combination with others) not to exceed 48.44 cfs. I cannot for the life of me figure out how those water rights add up to 48.44 including any individual rate limits. I calculate 50.64 cfs with all the limiting conditions of each considered. This is important because that dictates the total amount of diversion allowed at the main Bybee POD and then how much each water user is allowed. If each of them individually used their full rate as authorized by their individual right, they would be using at least 50.64 cfs and someone else is getting shorted (or the Bybee could be over diverting).

2. For water right 2-7168A T06S03ESection 4 SWSW was originally described as 38 acres, buy the applicant proposes that now that is only 36 acres. I have a hard time believing that by drawing the lines different to exclude a narrow channel (I assume) the two acres are not being irrigated. Looking at imagery from October 2024 that area appears to be seamlessly irrigated.

3. Does the applicant plan to dry up the area T06S03ESection 4 SESW or does he plan to continue renting water? Does the applicant have plans to exclude 2 acres in the T06S03ESection 4 SWSW area?

Thank you .

Kellie Smith

IDWR Water Distribution

(208) 287-4842

From: Parker, Cody <Cody.Parker@idwr.idaho.gov>
Sent: Thursday, January 16, 2025 2:34 PM
To: Whitney, Rob <Rob.Whitney@idwr.idaho.gov>; Erling, Jes <Jes.Erling@idwr.idaho.gov>; Smith, Kellie <Kellie.Smith@idwr.idaho.gov>
Subject: Watermaster Comments Transfer No 89417

Dear Watermaster(s)?

Attached is an application, review, and draft transfer approval for Darrell Agenbroad. The applicant proposes to put two of his water rights into a 184-acre permissible place of use. No other uses are proposed. Please let me know if you have any comment within 14 days.

Thank you

Cody Parker
Water Rights Supervisor
Idaho Dept of Water Resources

2735 Airport Way, Boise, ID 83705
(208)-605-4629

MEMORANDUM

TO: Water Rights 2-7168A & 2-10436

FROM: Cody Parker

DATE: December 16, 2024

RE: Evaluation of application for transfer 89417

Transfer application 89417 proposes to put water rights 2-7168A and 2-10436 into a common 184-acre permissible place of use. This application was submitted as the result of Enforcement case E2023-2930. Between the transfer and a related rental of water from the Water Supply Bank, the applicant hopes to resolve the enforcement case.

Legal notice of this transfer application is not required. The changes proposed in the application do not appear to change the effect on the original or hydraulically connected water sources or affect other water rights.

Authority to File:

Darrell Agenbroad is the owner of record for both water rights involved in the transfer. Mr. Agenbroad submitted and signed the transfer. The proposed permissible place of use is on land owned by Mr. Agenbroad. No concerns

Validity of Water Rights:

Both water rights involved in the transfer were decreed by the SRBA court in 2009. Aerial imagery from 2023 demonstrates full beneficial use of the water rights in the last five years. No concerns.

Injury to Other Water Rights:

The application proposes to change the Permissible Place of Use for 2-10436, and put water right 2-7168A into the same PPU. The change should not cause injury to other water rights. No concerns.

Enlargement of Use:

Water rights 2-7168A and 2-10436, when combined are limited to 184 acres of irrigation. There are no other overlapping irrigation water rights at this place of use. The transfer proposes to put both rights into a common 184-acre permissible place of use. Prior to the transfer, the rights appear to have been part of a common system. The change should not result in the enlargement of any water rights.

Local Public Interest:

There is no evidence to suggest that the changes proposed by the application conflict 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 § 42-222 and should be processed.

BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics
Hydrology
Water Resources

RECEIVED
OCT 25 2024
WATER RESOURCES
WESTERN REGION

October 21, 2024

Nick Miller
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-508

Re: Darrell Agenbroad

Dear Mr. Miller:

Darrell Agenbroad desires to update the irrigation place of use of water rights 2-7168A and 2-10436. No other characteristic of the water rights will be changing with this transfer application. The water rights have fully been utilized as shown in aerial photographs.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Darrel Agenboard
Enc: Application for Transfer, Aerial Maps, Brockway Engineering Check #18244 for $580.

CHARLES E. BROCKWAY, PH.D., P.E.

CHARLES G. BROCKWAY, PH.D., P.E.

2016 NORTH WASHINGTON STREET • SUITE 4

TWIN FALLS, IDAHO 83301

208•736•8543

FAX: 736•8506