

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 89167**

This is to certify that: **THOMAS FLISS**
1266 DEER CREEK RD
WHITE BIRD, ID 83554-5030

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>
79-10216	WR/DECREED	5/1/1964	0.060 cfs	N/A	N/A	N/A	SPRING

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>
79-10216	NO	YES	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
79-10216	79-10216	0.060 cfs	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		N/A	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 16th day of January, 2025.

Phill Hummer, Water Rights Section Manager

WATER RIGHT NO. 79-10216
As Modified by Transfer No. 89167

In accordance with the approval of Transfer No. 89167, Water Right No. 79-10216 is now described as follows:

Right Holder: THOMAS FLISS
 1266 DEER CREEK RD
 WHITE BIRD, ID 83554-5030

Priority Date: 5/1/1964

Source: SPRING

Tributary: DEER CREEK

BENEFICIAL USE

DOMESTIC
 STOCKWATER

From

1/01
 1/01

To

to 12/31
 to 12/31

Diversion Rate

0.040 cfs
 0.020 cfs
 0.060 cfs

LOCATION OF POINT(S) OF DIVERSION

SPRING NENE Sec 18 Twp 27N Rge 01E IDAHO County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
27N	01E	18	X																

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
27N	01E	18	X																

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. 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.
4. The quantity of water under this right shall not exceed 13,000 gallons per day.

Transfer No. 89167

WATER RIGHT NO. 79-10216
As Modified by Transfer No. 89167

CONDITIONS OF APPROVAL

5. The quantity of water decreed for this water right is not a determination of historical beneficial use.
6. Parcel No. RP27N01E180160 Stockwater, 15 Range Cattle

State of Idaho
Department of Water Resources
Attachment to Water Right Transfer
79-10216

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

06W



Legend

-  Transfer Point of Diversion
-  Transfer Place of Use
-  Township/Range
-  Sections
-  QQ

0 50 100 200 300 Feet



RECEIVED

Sep 23, 2024

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

89167

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

JUL 12 2024

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and ~~Additional Part 2B forms~~ are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) Thomas FlissCheck whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☒ #10 Other. Please describe: _____

89167

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Thomas Fliss Phone 208-315-3344
Mailing address 1246 Deer Creek Road, White Bird ID 83554 Email Maryjeansawyer@live.com
cc: Myraitorabbey@gmail.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Abigail Tucker Phone 208-921-0634
Mailing address P.O. Box 1430, Riggins ID 83549 Email Myraitorabbey@gmail.com

☐ Send all correspondence for this application to the representative and not to the applicant.
OR

☒ Send original correspondence to the applicant and copies to the representative.

☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.
OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

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.

Thomas J. Fliss
Signature of Applicant or Authorized Representative

Thomas J. Fliss
Print Name and Title if applicable

6/27/24
Date

Thomas Fliss
Signature of Applicant or Authorized Representative

Thomas Fliss
Print Name and Title if applicable

09/20/2024
Date

A. PURPOSE OF TRANSFER TF

09/20/2024 07:14 PM

1. ☒ Change point of diversion
☐ Change nature of use

- ☐ Add diversion point(s)
☐ Change period of use

- ☒ Change place of use
☐ Other _____

2. Is this a transfer for changes pursuant to Idaho Code §42-221.0.8?
If yes, ☒ attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

ASKING IDWR TO further look into the place of use. I believe it may have been filed incorrectly either at original application for water right or by the Snake River adjudication. This domestic + stockwater has serviced my property for over 50 years. See attached Declaration deed from Tim Craig. water right # 89167

Page 2

TF 09/20/2024

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Water is collected in a cinder block system then pumped across deer creek Road to my property

- b. Who owns the property at the point(s) of diversion? Tate Stowers

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Water use and Maintenance Agreement

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

N/A

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

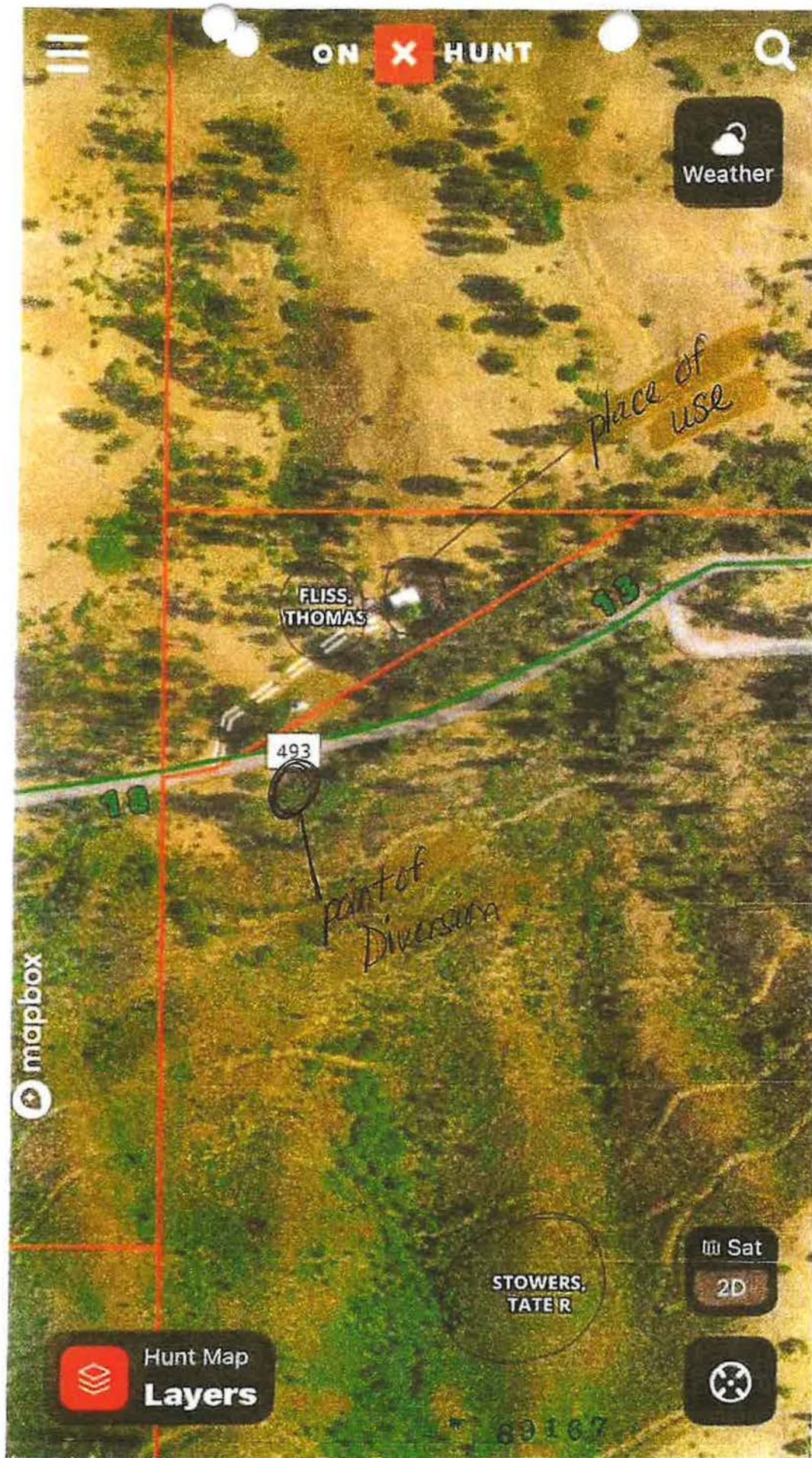
none

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:



77-10276

10216

5/1/1964

Schizothorax

TIMOTHY J CRAIG

DOMESTIC

1997 10 10 43

SPRING

2007-08

1288

Creek Rd

6/21/2024

IDAHO DEPARTMENT OF WATER RESOURCES

6/21/2024

Proof Report

4. DETERMINATION OF HISTORICAL BENEFICIAL USE.
PARCEL NO. RP 27N01E180600 STOCKWATER, 15 RANGE CATTLE

Dates and Other Information:

Decreed Date: 12/29/2000
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: NWD
Mitigation Plan: False

Combined Use Limits:

N/A

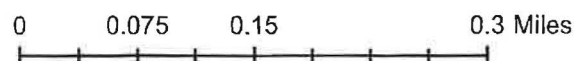
SubCase:

N/A

Water Supply Bank:

N/A

79-10216



-  Place Of Use Boundary
-  Point of Diversion
-  State Outline
-  Townships
-  PLS Sections
-  Quarter Quarters





Abigail Tucker <myrealtorabbey@gmail.com>

Transfer Application for Water Right 79-10216

Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov>
To: Abigail Tucker <myrealtorabbey@gmail.com>
Cc: "maryjeansawyer@lwe.com" <maryjeansawyer@lwe.com>

Fri, Sep 20, 2024 at 11:06 AM

Hello,

I am currently reviewing your transfer application currently proposing to change the legal description of the place of use for water right 79-10216 from the NWNE of Sec. 18 to the NENE of Sec. 18. According to current authorization of water right 79-10216 (map attached to this email) the point of diversion is in the NWNE of Sec. 18, but the map provided with the transfer application indicated the POD is located within the NENE of Sec. 18 (the same legal description as the proposed POU). I believe it is probably a good idea to also propose to change the legal description of the POD. I have attached a copy of the transfer application for changes to be made. Please make the appropriate changes to the transfer application to propose the legal description of the point of diversion should change. Please make sure to sign and date the amended application. The Department can accept signatures in a DocuSign format. Sections of the application that would/might need changes include A1, A3, B3, and POD location table. If there are any other changes that you believe need to be made, please feel free to do so. Once you have completed those changes please scan and send the amended application to our file email, file@idwr.idaho.gov in a PDF format. No additional fees will be necessary if these changes are made. If you have any questions or concerns, please let me know.

Best,

Skyler

Idaho Dept. of Water Resources

322 E. Front St. P.O. Box 83720 Boise, ID 83720

www.idwr.idaho.gov

2 attachments**Currently Authorized 79-10216 Map.pdf**
1115K**Transfer Application 89167 Fliss.pdf**
921K

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

89167

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

JUL 12 2024

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) _____

Thomas Fliss

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☒ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

89167

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Thomas Fliss Phone 208-315-3344
Mailing address 1246 Deer Creek Road, White Bird ID 83554 Email Maryjeansawyer@live.com
cc: Myrealtorabbey@gmail.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No Representative

Name of Representative Abigail Tucker Phone 208-921-0634
Mailing address P.O. Box 1430, Riggins ID 83549 Email Myrealtorabbey@gmail.com

☐ Send all correspondence for this application to the representative and not to the applicant.

OR

☒ Send original correspondence to the applicant and copies to the representative.

☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

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.

Thomas J. Fliss
Signature of Applicant or Authorized Representative

Thomas J. Fliss
Print Name and Title if applicable

6/27/24
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Is this a transfer for changes pursuant to Idaho Code § 42-221.0.8?
If yes, ☒ attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.3**.

ASKING IDWR to further look into the place of use. I believe it may have been filed incorrectly either at original application for water right or by the Snake River Adjudication. This domestic + stockwater has serviced my property for over 50 years. See attached Declaration dated from Tim Craig. water right # 89167

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☒ All or Part	<u>79-10216</u>		<u>Domestic</u>	<u>1/1</u> to <u>12/31</u>	<u>Spring / Deer Creek</u>
☒	<u>79-10216</u>		<u>Stockwater</u>	<u>1/1</u> to <u>12/31</u>	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 60 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 60 cubic feet per second and/or _____ acre-feet per year.

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

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	
<u>27N</u>	<u>1E</u>	<u>18</u>	<u>D/S</u>																
Total Acres (for irrigation use)																			

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Water is collected in a cinder block cistern then pumped across deer creek Road to my property

- b. Who owns the property at the point(s) of diversion? Tate Stowers

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Water use and Maintenance Agreement

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

N/A

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

none

- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:



322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

January 17, 2025

THOMAS FLISS
1266 DEER CREEK RD
WHITE BIRD ID 83554-5030

Re: Transfer No: 89167
Water Right No(s): 79-10216
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) 287-4800.

Sincerely,

A handwritten signature in cursive script that reads "Debra Mansfield". The signature is written in dark ink and is positioned above the printed name and title.

Debra Mansfield
Technical Records Specialist

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 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.: 89167

Water Right No(s): 79-10216

**THOMAS FLISS
1266 DEER CREEK RD
WHITE BIRD ID 83554-5030**

A handwritten signature in cursive script, reading "Debra Mansfield", is written over a horizontal line.

**Debra Mansfield
Technical Records Specialist**

CERTIFICATE OF SERVICE

All exceptions, briefs, request 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 Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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.

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was held)

The accompanying order is a **Preliminary Order** issued by the Idaho Department of Water Resources (Department) pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and brief as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of the order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The hearing officer 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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.

MEMORANDUM

TO: Transfer No. 89167
FROM: Skyler Cheever – Water Rights Agent Sr.
DATE: 9/20/2024
RE: Evaluation of Application

Application for Transfer of Water Right No. 89167 ("this application") proposes to change the legal description of the point of diversion ("POD") for Water Right No. 79-10216 from the NWNE of Section 18, Twp. 27N, Rng. 01E to the NENE of the same Sec., Twp., and Rng. The applicant also proposes to change the legal description of the place of use ("POU") from the NWNE and NENW of Sec. 18, Twp. 27N, Rng. 01E to the NENE of the same Sec., Twp., and Rng.

According to current water right authorization the POD is within the NWNE of Section 18, Twp. 27N, Rng. 01E. However, according to a map provided with this application the POD is within the NENE quarter-quarter of Sec. 18, Twp. 27N, Rng. 01E. The original application (received July 12, 2024) did not propose updating the location of the POD. I contacted the representative on September 20th, 2024, and recommended this application be amended to include a change the legal description of the POD. An amended application with a change of POD was received on September 23rd, 2024.

The site is located southeast of White Bird, ID within Idaho County. The proposed POU is a 5.1-acre parcel with one home. The proposed POD is located on property not owned by the applicant according to Idaho Tax Parcel Data. The applicant states in section 5b on their application they have a legal access agreement with the other property owner.

The applicant is Thomas Fliss. Abigail Thomas. The representative has requested copies of correspondence with the applicant.

Summary

Authority to File:

Thomas Fliss signed this application. Mr. Fliss has the authority to file this application because he is the owner of Water Right No. 79-10216 according to Department records.

Water Right Validity:

WR 79-10216 was decreed in the SRBA in 2000 with the POD and POU authorized on a different property than this application proposes. However, the applicant indicated water has been used at their property for over 50 years. There are no apparent validity concerns.

Injury to Other Water Rights:

There are no other WR's diverting from the proposed POD and POU. According to the applicant this water right has been utilized at their property for over 50 years. Therefore, there are no injury concerns.

Enlargement of Use:

The currently authorized beneficial use under Water Right No. 79-10216 is not changing, only the legal description of the POD and POU. Therefore, there are no enlargement concerns.

Local Public Interest:

The existing beneficial use authorized under Water Right No. 79-10216 will not change. This application is fixing a clerical issue. For these reasons the proposed changes to the water right are consistent with the local public interest.

Beneficial Use/Conservation of Water Resources:

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

Water Right Overlap

There are no other WR's that overlap with the proposed POD and POU of Water Right No. 79-10216.

Mitigation

This water right is not within a Moratorium Area, Ground Water Management Area, other Administrative Area or is conditioned requiring a mitigation plan.

Water Supply Bank

The water right is not and has not been leased into the water supply bank.

Discussion

The applicant proposes the authorized POU and POD were decreed incorrectly and are located on the applicant's property. The applicant indicated water has been used at the proposed property for over 50 years. According to Idaho Code §42-221 O (8) the application fee is \$50 if a transfer application proposes a change in the legal description of the POD or POU without physically changing the physical location of the POD or POU inconsistent with the decree or license.

The applicant claims the POD and POU were decreed in the wrong location. There are no records prior to the partial decree that are easily available for the right that provide information to show historical use. However, there are some indicators the POD and POU were likely decreed incorrectly. The description of the diversion system matches the description provided with the sparse adjudication information is available. Additionally, the original owners of the water right never owned the property containing the currently authorized POU according to Idaho Tax Parcel records. The property under the ownership of Mr. Fliss was previously owned by the adjudication claim applicant and the data entry for the right include the parcel number description RP27N01E180600 which matches the property currently owned by Fliss. According to Google Earth Imagery the proposed POD and POU have existed almost unchanged since 1992 and were utilized water authorized by Water Right No. 79-10216 for over 50 years. Therefore, there is enough information to conclude Idaho Code §42-221 O (8) would apply, and the application fee should only be \$50.

I recommended that this application does not need to be advertised because there are no changes to the historical use of this water. This application only proposes corrections to the legal descriptions of the POD and POU.

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

Hersley, Jean

From: Abigail Tucker <myrealtorabbey@gmail.com>
Sent: Monday, September 23, 2024 10:54 AM
To: IDWR File
Cc: Cheever, Skyler; Mary Sawyer
Subject: Fwd: Transfer Application for Water Right 79-10216
Attachments: ThomasFlissWaterRightAppAmended.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

To whom it may concern,

See attached amended application electronically signed and initialed by Mr. Fliss. Please confirm receipt of the attached and this email.

Let us know if you need anything else. We look forward to hearing from you soon.

Kind Regards,
Abigail Tucker

On Fri, Sep 20, 2024 at 11:06 AM Cheever, Skyler <Skyler.Cheever@idwr.idaho.gov> wrote:

Hello,

I am currently reviewing your transfer application currently proposing to change the legal description of the place of use for water right 79-10216 from the NWNE of Sec. 18 to the NENE of Sec. 18. According to current authorization of water right 79-10216 (map attached to this email) the point of diversion is in the NWNE of Sec. 18, but the map provided with the transfer application indicated the POD is located within the NENE of Sec. 18 (the same legal description as the proposed POU). I believe it is probably a good idea to also propose to change the legal description of the POD. I have attached a copy of the transfer application for changes to be made. Please make the appropriate changes to the transfer application to propose the legal description of the point of diversion should change. Please make sure to sign and date the amended application. The Department can accept signatures in a DocuSign format. Sections of the application that would/might need changes include A1, A3, B3, and POD location table. If there are any other changes that you believe need to be made, please feel free to do so. Once you have completed those changes please scan and send the amended application to our file email, file@idwr.idaho.gov in a PDF format. No additional fees will be necessary if these changes are made. If you have any questions or concerns, please let me know.

Best,

Skyler



Skyler Cheever

Water Resource Agent, Sr - State Office

(208)-287-4913

Skyler.cheever@idwr.idaho.gov

Idaho Dept. of Water Resources

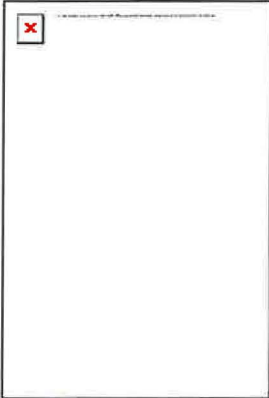
322 E. Front St., P.O. Box 83720 Boise, ID 83720

www.idwr.idaho.gov

Abigail Tucker

Broker/Owner

REALTOR®



Salmon River Realty

P.O. Box 1430

Riggins, ID 83549

"Your Salmon River Real Estate Professionals"

Cell: (208) 921-0634

Office: (208) 628-3320

Email: myrealtorabbey@gmail.com

Website: salmonriverrealty.com

RECEIVED

Aug 26, 2024

DEPARTMENT OF
WATER RESOURCES

August 18, 2024

Thomas Fliss
1266 Deer Creek Road
White Bird ID 83554

RE: 79-10216

Dear Idaho Department of water resources,

I have been working with the department for the last several months on obtaining my water right for my domestic water to my home. I didn't realize the paperwork had not been filed at purchase in 1991 until preparing to list my home. I have met all the requirements asked of me by the department to get the water right into my name. I now own the water right, but according to the department the place of beneficial use is incorrect. Please look into the recent history with Debra Mansfield regarding water right 79-10216. I have sent in an application for transfer of water right (regarding place of use), 6/27/2024, with a \$50.00 check # 3230.

I am writing to ask that my application for transfer of water rights (change in place of use) be expedited so I can get my home listed and sold as soon as possible due to substantial financial hardship.

Kind Regards,

Thomas Fliss

08/22/2024 08:44 AM

Thomas Fliss

Hersley, Jean

From: Abigail Tucker <myrealtorabbey@gmail.com>
Sent: Monday, August 26, 2024 6:59 PM
To: IDWR File
Cc: Mary Sawyer
Subject: Thomas Fliss - Place of beneficial use - 1266 Deer Creek Road
Attachments: FlisslettertotheIDWR1.pdf

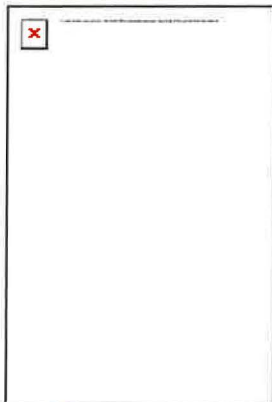
CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

To whom it may concern:

Per your request to my client, Thomas Fliss to submit a letter requesting his application be processed as soon as possible due to financial hardship. Please see attached letter signed by Mr. Fliss. Please confirm receipt and let me know if you have any questions. Mr. Fliss can be reached at 208-315-3344.

Kind Regards,

--
Abigail Tucker
Broker/Owner
REALTOR®



Salmon River Realty

P.O. Box 1430

Riggins, ID 83549

"Your Salmon River Real Estate Professionals"

Cell: (208) 921-0634

Office: (208) 628-3320

Email: myrealtorabbey@gmail.com

Website: salmonriverrealty.com