

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESRECEIVED
MAY 05 2025
DEPT. OF WATER RESOURCES
EASTERN REGION

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 proposed changes (Part 3), information about the validity of the water right(s) and the effects of the proposed changes (Part 4), and confirmation that the information provided is truthful (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) Debbie Ellwein and Melvin J. Ellwein Testamentary QTIP TrustMailing Address PO Box 815 Boulder MT 59632

Email* _____ Phone _____

Name of Representative (if any) Greg SullivanMailing Address 2016 N Washington St Ste 4 Twin Falls, ID 83301Email* greg.sullivan@brockwayeng.com Phone 208-736-8543

*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 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 entity currently registered with the Idaho Secretary of State?

☐ 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.

G. Legal Access. If the applicant is not the current owner of the proposed point(s) of diversion, conveyance system, or place(s) of use, provide evidence of legal access to the land or infrastructure not owned by the applicant. Label documents as Attachment 1G. For example, an applicant may provide a letter of consent from the owner of the land or conveyance system or may have the owner co-sign the application. For applications proposing to divert water on or convey water across federal land, an applicant is not required to demonstrate legal access to the federal land prior to approval. Instead, if the transfer application is approved, the applicant must obtain access authorization from the relevant federal agency prior to diverting water under the subject water rights.

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 the 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.

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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	
06D	26E	20		4			6			6	5								21

Total Irrigated Acres to be Changed: 21.0

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 described on a transfer application. Identify the changes proposed in this application:

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

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

The 21.0 acres were used to irrigated the southern pivot in 2017, 2018, 2019 and 2020.

Storage water from the Mackay reservoir and water owned by the Ramshorn Grazing Assn Inc. were used to irrigate the east half of this pivot. Dry water years prevented sufficient water to be available after 2020. This transfer proposes to correctly identified the location of the water right place of use based on the historical irrigation that has occurred.

Melvin Ellwein has passed away and the water right ownership needs to be updated to be owned half by Debbie Ellwein, individually, and half by the QTIP trust.

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 (af) for storage uses or the rate in cubic feet per second (cfs) for all other uses.

All or Part	Right Number	Amount (cfs/af)	Nature of Use	Period of Use	Source
☒ ☐	34-228A	0.80	Irrigation	5/01 to 10/15	Big Lost River
☒ ☐	34-360C	0.92	Irrigation	5/01 to 10/15	Big Lost River
☒ ☐	34-856G	0.80	Irrigation	5/01 to 10/15	Big Lost River
☒ ☐	34-14835	0.80	Irrigation	5/01 to 10/15	Big Lost River
☐ ☐				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: 3.32 cfs and/or 0.45 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 the 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	
06N	26E	20		34			33			34	33			21					155

Total Irrigated Acres: 155

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 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 water right 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. Statutory exceptions or defenses to forfeiture are set forth in Section 42-223, *Idaho Code*.

☒ No.

B. Injury to Other Water Rights

1. Identify any other water right(s) diverted at the current point(s) of diversion.
34-830F et al.

2. Identify any other water right(s) diverted at the proposed point(s) of diversion.
34-830F et al.

3. Is the proposed point of diversion within a state water district? ☒ Yes. Water District # 34. ☐ No.

4. If already constructed and in use, 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 changing 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 impacts in a time-series format 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 changing 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. Unstacking Water Rights for Irrigation. 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, existing delivery system to the property and existing pivot system.

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.

<u></u> Devin L. Baker (Apr 29, 2025 17:46 MDT)		04/29/25
Signature of Applicant or Representative*	Print Name and Title, if applicable	Date
<u></u> Devin L. Baker, as Trustee of the Malheur F.F. Basin Testametary (OIR Trust) (Apr 28, 2025 15:44 MDT)		04/29/25
Signature of Applicant or Representative*	Print Name and Title, if applicable	Date

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

FOR DEPARTMENT USE ONLY

Fee Paid: \$ <u>600.00</u>	Receipt #: <u>E050844</u>	Date: <u>5/5/25</u>	Received by: <u>CAH</u>
Add'l Paid: \$ _____	Receipt #: _____	Date: _____	Received by: _____

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

Current Water Right No.: 34-228A

Current Owner: MELVIN J ELLWEIN
Priority Date: 6/1/1884
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

0.8 CFS

Annual Volume

Total Diversion

0.8 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

SE1/4NW1/4NW1/4

Sec. 34, Twp 07N, Rge 24E B.M.

CUSTER County

Place of Use

IRRIGATION Within BUTTE County

T06N R26E S20	NWNE	38.00	T06N R26E S20	NENW	39.00
T06N R26E S20	SENE	40.00	T06N R26E S20	NESW	38.00

Total Acres: 155

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. X35 Rights 34-228A, 34-360C, 34-856G and 34-14835 when combined shall not exceed the irrigation of 155 acres.
4. X27 This right is limited to the irrigation of 40 acres within the authorized place of use in a single irrigation season.
5. 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.
6. WATER IS DELIVERED THROUGH BURNETT DITCH.

Decreed Date: 1/29/2002

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

Current Water Right No.: 34-360C

Current Owner: MELVIN J ELLWEIN
Priority Date: 6/1/1887
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

0.92 CFS

Annual Volume

Total Diversion

0.92 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

SE1/4NW1/4NW1/4

Sec. 34, Twp 07N, Rge 24E B.M.

CUSTER County

Place of Use

IRRIGATION Within BUTTE County

T06N R26E S20	NWNE	38.00	T06N R26E S20	NENW	39.00
T06N R26E S20	SENW	40.00	T06N R26E S20	NESW	38.00

Total Acres: 155

Conditions of Approval:

1. X35 Rights 34-228A, 34-360C, 34-856G and 34-14835 when combined shall not exceed the irrigation of 155 acres.
2. X27 This right is limited to the irrigation of 46 acres within the authorized place of use in a single irrigation season.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
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.
5. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
6. WATER IS DELIVERED THROUGH BURNETT DITCH.

Page _____ of _____

Decreed Date: 2/4/2002

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

Current Water Right No.: 34-856G

Current Owner: MELVIN J ELLWEIN
Priority Date: 4/30/1884
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

0.8 CFS

Annual Volume

Total Diversion

0.8 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

SE1/4NW1/4NW1/4

Sec. 34, Twp 07N, Rge 24E B.M.

CUSTER County

Place of Use

IRRIGATION Within BUTTE County

T06N R26E S20	NWNE	38.00	T06N R26E S20	NENW	39.00
T06N R26E S20	SENE	40.00	T06N R26E S20	NESW	38.00

Total Acres: 155

Conditions of Approval:

1. X35 Rights 34-228A, 34-360C, 34-856G and 34-14835 when combined shall not exceed the irrigation of 155 acres.
2. WATER IS DELIVERED THROUGH BURNETT DITCH.
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
4. X27 This right is limited to the irrigation of 40 acres within the authorized place of use in a single irrigation season.
5. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
6. 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.

Page _____ of _____

Decreed Date: 2/4/2002

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

Current Water Right No.: 34-14835

Current Owner: MELVIN J ELLWEIN
Priority Date: 6/1/1894
Origin: Water Right
Status: Active
Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

0.8 CFS

Annual Volume

Total Diversion

0.8 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

SE1/4NW1/4NW1/4

Sec. 34, Twp 07N, Rge 24E B.M.

CUSTER County

Place of Use

IRRIGATION Within BUTTE County

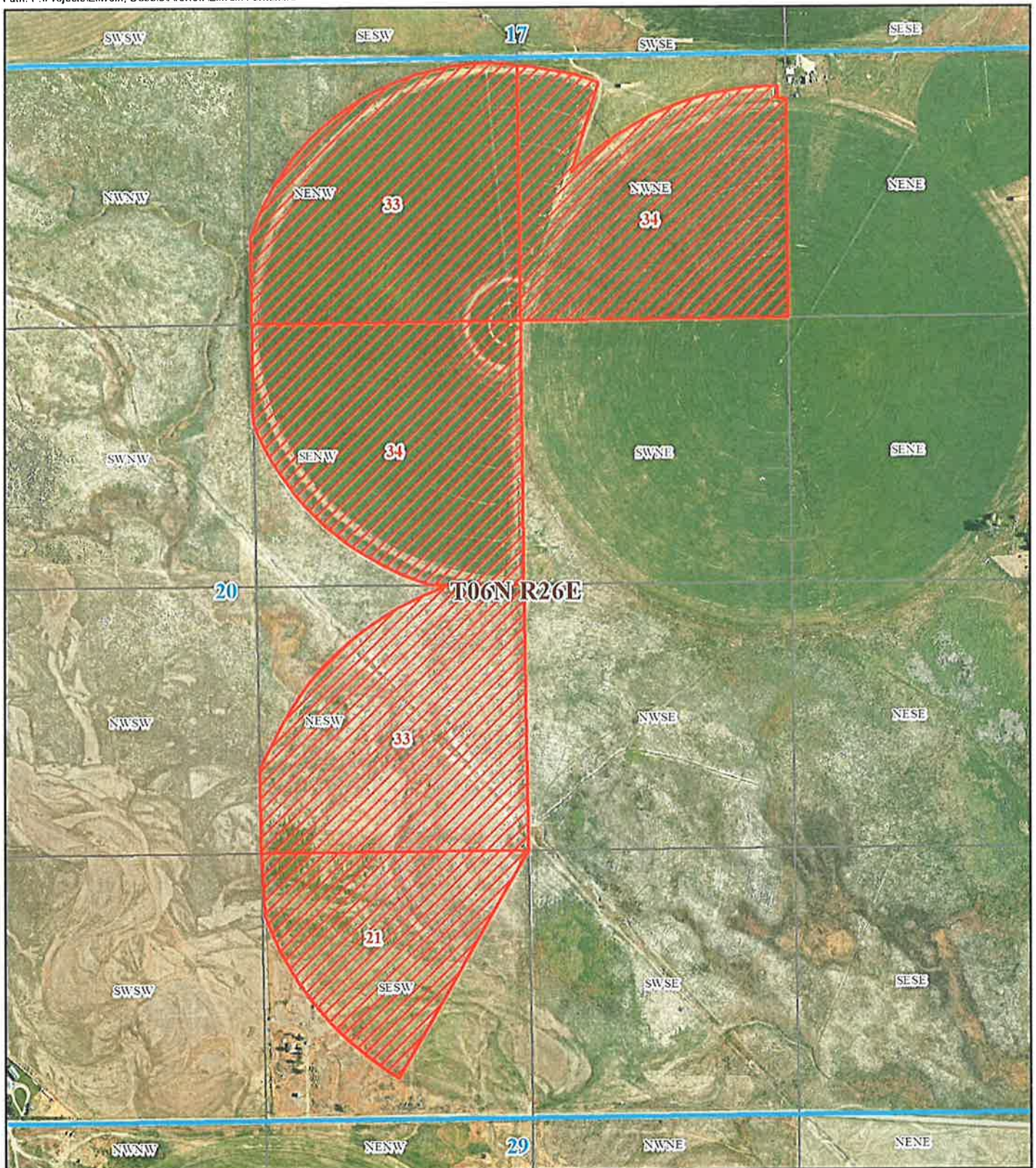
T06N R26E S20	NWNE	38.00	T06N R26E S20	NENW	39.00
T06N R26E S20	SENE	40.00	T06N R26E S20	NESW	38.00

Total Acres: 155

Conditions of Approval:

1. X35 Rights 34-228A, 34-360C, 34-856G and 34-14835 when combined shall not exceed the irrigation of 155 acres.
2. WATER IS DELIVERED THROUGH BURNETT DITCH.
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
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.
5. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Decreed Date: 1/29/2002



0 500 1,000 Feet

DEBBIE ELLWEIN WATER RIGHT POU TRANSFER

NAIP 2023 AERIAL

Legend

 Ellwein POU Acres



BROCKWAY ENGINEERING, PLLC.
GWS - Date: 2/26/2025

2017 Aerial from Google Earth



2020 Aerial from Google Earth



8/17/2018 Aerial Infrared from USGS



7/3/2019 Aerial Infrared from USGS



CONSENT TO WATER RIGHT TRANSFER

To Whom It May Concern,

I, Jonathan Toews, as the Deacon of the Lost River Valley Mennonite Church Inc., give permission to Debbie Ellwein, individually and as the personal representative of the Estate of Melvin J. Ellwein, or her legal representative, to transfer 23.0 acres of irrigation water from water rights 34-228A, 34-360C, 34-856G and 34-14835 to property located at Township 06 North Range 26 East Section 20 SESW. Water rights 34-228A, 34-360C, 34-856G and 34-14835 were used to irrigate via pivot said property during the irrigation season for the years 2019 and 2020. The Lost River Valley Mennonite Church Inc. now owns the described property and acknowledges that it does not have any legal claim on water rights 34-228A, 34-360C, 34-856G and 34-14835.

I, the undersigned, as the duly authorized representative of Lost River Valley Mennonite Church Inc., formally give consent to any transfer of these herein described water rights on or off of the herein described property at any time.

Lost River Valley Mennonite Church Inc.

By: _____

Jonathan Toews

Its: Lost River Valley Menn. Church Inc

Date: 2-14-2025

Filed: 04/04/2022 07:29:35
Seventh Judicial District, Custer County
Lura Baker, Clerk of the Court
By: Deputy Clerk - Plummer, Laila

Kelly C. Stevenson, ISB #10958
JONES ♦ WILLIAMS ♦ FUHRMAN ♦ GOURLEY, P.A.
225 North 9th Street, Suite 820
P.O. Box 1097
Boise, Idaho 83702
Telephone: (208) 331-1170
Facsimile: (208) 331-1529
kstevenson@idalaw.com

Attorney for Personal Representative, Debbie Ellwein

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

IN THE MATTER OF THE ESTATE OF

MELVIN J. ELLWEIN,

Deceased.

CASE NO. CV19-22-0031
LETTERS TESTAMENTARY
(I.C. 15-3-702)

1. Debbie Ellwein was duly appointed and qualified as general personal representative of the estate of the above-named decedent, Melvin J. Ellwein, by the Court with all authority pertaining thereto.
2. Administration of the estate is unsupervised.

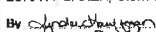
These letters are issued to evidence the appointment, qualification, and authority of Debbie Ellwein, personal representative of the Estate of Melvin J. Ellwein.

WITNESS, my signature and the Seal of this Court, this 4/3/2022 9:00:26 AM


MAGISTRATE



LETTERS TESTAMENTARY – ESTATE OF MELVIN J. ELLWEIN

STATE OF IDAHO COUNTY OF CUSTER	} ss
I hereby certify that the foregoing is a full, true and correct copy of the original on file in this office	
DATED: <u>3/7/2023 04:07 PM</u>	
LURA H. BAKER, Clerk of the District Court	
By:  Deputy	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4/4/2022 07:30 AM, a true and correct copy of the above and foregoing document was served as indicated below:

Kelly C. Stevenson
Jones ♦ Williams ♦ Fuhrman ♦
Gourley, P.A.
225 North 9th Street, Suite 820
Boise, Idaho 83702

☐	Hand Delivered
☐	U.S. Mail
☐	Facsimile (208) 331-1529
☒	Email: <u>kstevenson@idalaw.com</u>

Laila Plummer
Clerk

Instrument # 266707

CHALLIS, CUSTER, IDAHO
04-07-2025 08:49:24 No. of Pages: 2
Recorded for: JONES WILLIAMS FUHRMAN GOURLEY, P.
Lura H. Baker Fee: \$13.00
Ex-Officio Recorder Deputy: TG

Kelly C. Stevenson, ISB #10958
JONES ♦ WILLIAMS ♦ FUHRMAN ♦ GOURLEY, P.A.
225 North 9th Street, Suite 820
P.O. Box 1097
Boise, Idaho 83702
Telephone: (208) 331-1170
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Attorney for Personal Representative, Debbie Ellwein

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

IN THE MATTER OF THE ESTATE OF)

MELVIN J. ELLWEIN,)

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WITNESS, my signature and the Seal of this Court, this 4/3/2022 9:00:26 AM.

Jing Barrett
MAGISTRATE



LETTERS TESTAMENTARY – ESTATE OF MELVIN J. ELLWEIN

STATE OF IDAHO	} ss
COUNTY OF CUSTER	
I hereby certify that the foregoing is a full, true and correct copy of the original on file in this office	
DATED <u>3/7/2023 04:07 PM</u>	
LURA H. BAKER, Clerk of the District Court	
By <u><i>[Signature]</i></u>	
Deputy	

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Boise, Idaho 83702

☐	Hand Delivered
☐	U.S. Mail
☐	Facsimile (208) 331-1529
☒	Email: <u>kstevenson@idalaw.com</u>

Laila Plummer
Clerk

Pursuant to Paragraph 2.2 of Melvin J. Ellwein's Last Will and Testament, dated August 15, 2021, upon the death of Melvin J. Ellwein, Debbie Ellwein was nominated to serve as the trustee of the Melvin J. Ellwein Testamentary QTIP Trust. Melvin J. Ellwein died on March 3, 2022.

DATE: March 31, 2025

STATE OF IDAHO)
) ss.
County of Butte)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Kelly C. Stevenson
Jones Williams Fuhrman Gourley P.A.
225 N. 9th Street, Suite 820
Boise, ID 83702

(Space Above for Recorder's Use)

PERSONAL REPRESENTATIVE'S DEED

THIS DEED, made by Debbie Ellwein, as personal representative of the estate of Melvin J. Ellwein ("Grantor"), in equal shares to Debbie Ellwein, individually, and Debbie Ellwein, as trustee of the Melvin J. Ellwein Testamentary QTIP Trust, dated March 3, 2022 ("Grantees"), whose current address is P.O. Box 815, Boulder MT 59632.

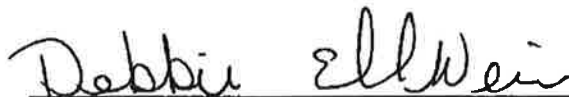
WHEREAS, Grantor is the qualified Personal Representative of the Estate of Melvin J. Ellwein, filed as Case No. CV19-22-0031, in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Custer;

THEREFORE, for valuable consideration received, Grantor quitclaims, transfers, and conveys to Grantees the real property in Butte and Custer Counties, State of Idaho further described in the attached **Exhibit A** and incorporated herein by this reference.

To HAVE AND TO HOLD the said premises, with all appurtenances unto the said Grantees, including but not limited to adjudicated water rights, rights of way, easements, mineral rights, fences, irrigation equipment, and fixtures.

All income and gain derived from such property shall be the sole and separate property of said Grantee.

EXECUTED this 3/3/25 day of March, 2025.



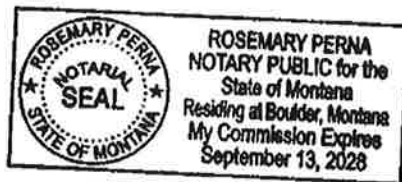
Debbie Ellwein, Personal Representative of the
Estate of Melvin J. Ellwein

STATE OF IDAHO)
)
 COUNTY OF BUTTE)

: ss

On this 31 day of March, 2025, before me, the undersigned, a notary public in and for said state, personally appeared Debbie Ellwein, known or identified to me to be the person whose name is subscribed to the within instrument, as Personal Representative of the Estate of Melvin J. Ellwein, deceased, and acknowledged to me that she executed the same as Personal Representative of said Estate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]
 NOTARY PUBLIC for Idaho Montana
 Residing at: Boulder Montana Jefferson County
 My Commission Expires: September 13th 2028

EXHIBIT A
Legal Description

160 acres +/- with the legal description as follows:

Within Butte County:

T6N R26E Section 20: NW1/4NE1/4, NE1/4NW1/4, SE1/4NW1/4.

T6N R26E Section 20: NE1/4SW1/4: that portion lying within Butte County.

Within Custer County:

T6N R26E Section 20: NE1/4 SW1/4: that portion lying within Custer County.

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

Kelly C. Stevenson
Jones Williams Fuhrman Gourley P.A.
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Boise, ID 83702

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EXECUTED this 3/3/25 day of March, 2025.



Debbie Ellwein, Personal Representative of the
Estate of Melvin J. Ellwein

STATE OF IDAHO

)

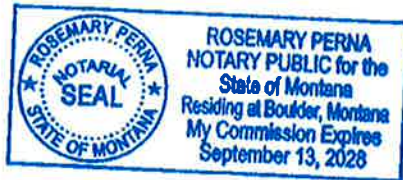
: ss

COUNTY OF BUTTE

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A large, stylized handwritten signature in black ink, appearing to read "Rosemary Perna".

NOTARY PUBLIC for ~~Idaho~~ Montana
Residing at: Boulder Montana Jefferson County
My Commission Expires: September 13th 2028

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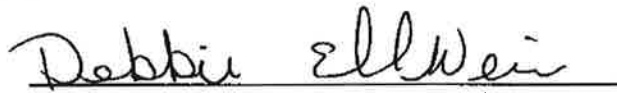
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EXECUTED this 3/3/25 day of March, 2025.


Debbie Ellwein, Personal Representative of the
Estate of Melvin J. Ellwein

PERSONAL REPRESENTATIVE'S DEED - 1

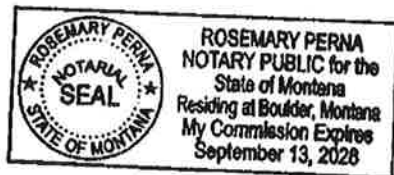
STATE OF IDAHO)

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Within Custer County:

T6N R26E Section 20: NE1/4 SW1/4: that portion lying within Custer County.

RECEIVED

MAY 05 2025

DEPT. OF WATER RESOURCES
EASTERN REGION



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

April 30, 2025

James Cefalo
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Debbie Ellwein

Dear Mr. Cefalo:

Debbie Ellwein desires to update the irrigation place of use and the ownership of irrigation water rights 34-228S, 34-360C, 34-856G and 34-14835. The beneficial use, period of use and points of diversions for these water rights will not be changing with this transfer.

Melvin Ellwein has passed away and his name needs removed from the water right ownership. Melvin J. Ellwein Testamentary QTIP Trust needs to be added as an owner to these water rights.

The 21 acres that are to be adjusted with this transfer will move the 21 acres to the area that was irrigated in 2017, 2018, 2019 and 2020. However, this property is now owned by Lost River Valley Mennonite Church Inc. A consent to water right transfer document has been prepared, signed and attached to this letter to allow the transfer to be submitted and processed by IDWR.

Please copy our office on all correspondence regarding this application.

Sincerely,

Greg Sullivan, M.S., Engineer

Cc: Debbie Ellwein, Kelly Stevenson via email
Enc: Transfer Application, Aerial Maps, Consent To Water Right Transfer, Deeds and Legal Documents, Brockway Engineering Check # 18532 for \$600.00

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