

Fredric W. Price
Water Rights Specialist
U.S.D.I., Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657
(208) 373-3831 phone
(208) 373-3839 fax
fwprice@blm.gov

RECEIVED
JUL 16 2025
WATER RESOURCES
WESTERN REGION
JUL 15 2025
DEPT. OF WATER RESOURCES

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF TRANSFER NO. 89494)
IN THE NAME OF FRANK TIEGS LLC) **PETITION**
_____))
))

On July 1, 2025, the Idaho Department of Water Resources ("IDWR") issued an approved Transfer No. 89494 (involving water rights 02-07064 et. al.) to Frank Tiegs LLC ("Applicant"). The United States of America, Department of Interior, Bureau of Land Management ("BLM") respectfully files this Petition regarding issuance of Transfer No. 89494 pursuant to the IDWR rules of procedure IDAPA 37.01.01.730.02 and I.C. 42-1701A(3).

Application for Transfer No. 89494 ("Application") sought move the Point of Diversion ("POD") 24 miles upstream to the high lift pump station (residing on federal land) and to establish a new permissible place of use ("PPU") in the new area.

For some reason, IDWR decided not to advertise the transfer in the newspaper. The approved transfer is the first opportunity for BLM to review this action. There is no notice of approved transfers. BLM just happened to come across the approved transfer. Notice of this transfer is defective.

BLM petitions against the defective notice for the approval of Transfer No. 89494. The Applicant does not have legal access to convey additional water through existing infrastructure. Introduction of foreign water into an existing ROW grant (water facility) after FLPMA requires a right-of-way (ROW) to convey water across BLM land. Older ROW authorities were repealed by FLPMA; therefore, FLPMA is the only way to authorize the post-FLPMA conveyance of additional water across BLM. This transfer constitutes a trespass on BLM.

A FLPMA ROW is required because: [RS-2339] "merely provides for protecting such rights to the use of water as may have vested and accrued." *Taylor v. Abbott*, 103 Cal. 421, 37 P. 408. "There is no intention evidenced by the statute [RS-2339] to make the grant subject to such water rights ... as may thereafter become necessary or convenient" and the "easement -became fixed." "No change can now be made in the character of the servitude." *White Bros v. Watson*, 64 Wash 666, 117 P 497 (1911). The purpose of the grant is to provide for the collection and transportation of vested appropriated water (BLM Manual 2809.22.E.1). Only vested appropriated water may be transported. The transportation of non-vested appropriated water may be grounds for forfeiture or the grant of ROW (BLM Manual 2809.22.E.3).

The transfer applicant is not authorized to expand (i.e., substantial deviation beyond the scope) the use of federal public land for the purposes stated in the Application. Trespass on federal land is a prohibited act (43 CFR §2808.10(a)). A water right cannot be established in trespass (See e.g., *In RE General Determination of Rights to Use of Surface and Ground Waters of Payette River*, 107 Idaho 221, 687 P.2d 1348, 1353 (1984); citing, *Lemmon v. Hardy*, 95 Idaho 778, 519 P.2d 1168 (1974); *Jones v. McIntire*, 60 Idaho 338, 91 P.2d 373 (1939); *Bachman v.*

Reynolds Irrigation Dist., 56 Idaho 507, 55 P.2d 1314 (1936); *Short v. Praisewater*, 35 Idaho 691, 208 P. 844 (1922); *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920); *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931)). It is not in the local public interest to allow a transfer to establish a use in trespass elsewhere.

There is an existing right-of-way (ROW) grant (IDI-021930) that was issued under the authority of FLPMA on 12-10-1987 and is currently held by Midnight Sun Inc. The water facility ROW (IDI-021930) is supported by existing water rights as required (02-02260 (1963), 02-07019B (1968), 02-07019D (1968), 02-07022B (1968), 02-07023B (1968), 02-07102B (1972), and 02-10053 (1930)). These water rights were once held by Midnight Sun Inc but were conveyed to Danskin Cattle LLC via a warranty deed dated 11-07-2011. I also see a change of ownership filed in 2020 between Midnight Sun and Frank Tiegs LLC. It appears that Frank Tiegs LLC may be a successor to Midnight Sun Inc for ROW IDI-021930.

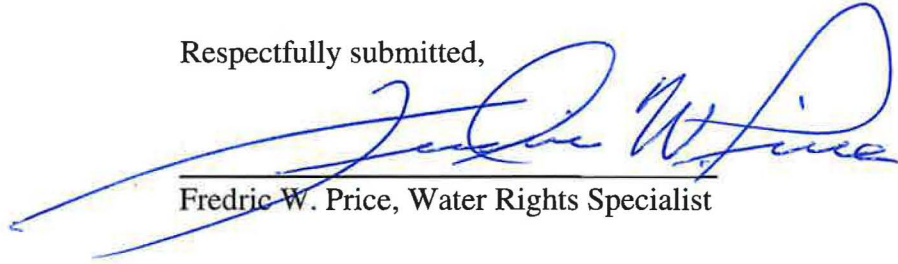
Third parties cannot utilize someone else's ROW and must obtain their own ROW. This FLPMA ROW (IDI-021930) could be modified to allow the conveyance of additional water rights (as follows) through the grant (provided that Frank Tiegs LLC were the holder of the ROW): 02-07064, 02-07237A, 02-10181, and 02-10189.

According to the Owyhee County Assessor's Office, the lands served by the transfer (i.e., place of use (POU)) are currently owned by Frank Tiegs LLC, so again, it appears that Tiegs may be a successor to the Midnight Sun ROW (IDI-021930).

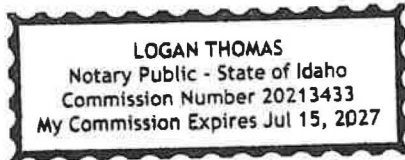
IDWR's approval of Transfer 89494 should be withdrawn so that the Applicant can pursue getting authorization to convey the transfer water rights through the new POD and

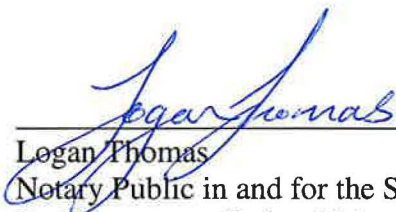
associated infrastructure and across federal land.

Respectfully submitted,


Fredric W. Price, Water Rights Specialist

Subscribed and sworn to before me this 15th day of July, 2025.
Witnessed by my hand and official seal.




Logan Thomas
Notary Public in and for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 7/15/2027

CERTIFICATE OF SERVICE

I HEARBY CERTIFY that on July 15, 2025 I served a true and correct copy of the foregoing **PETITION; TRANSFER NO. 89494** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

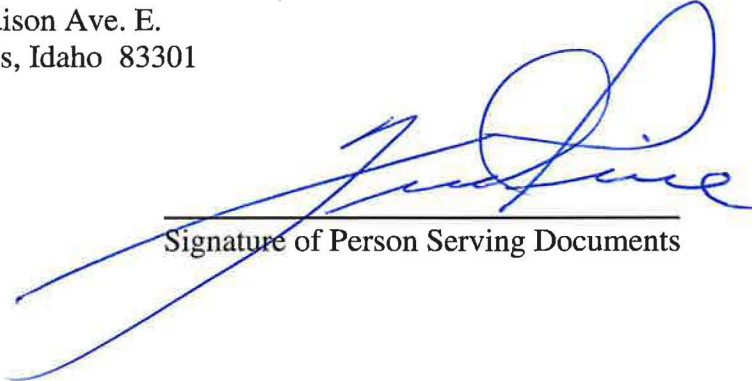
Original to:

Mathew Weaver, Director
IDWR, State Office
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Copies to:

Frank Tiegs LLC
P.O. Box 3110
Pasco, WA 99302-3110

Joanna Tjaden, Field Manager
U.S.D.I., BLM
Jarbidge Field Office
2878 Addison Ave. E.
Twin Falls, Idaho 83301



Signature of Person Serving Documents