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WATER RESOURCES
WESTERN REGION

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Nov 13, 2025

DEPARTMENT OF
WATER RESOURCES

Michael P. Lawrence, ISB No. 7288
Megann E. Meier, ISB No. 11948
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
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mpl@givenspursley.com
mem@givenspursley.com

Attorneys for Applicant Frank Powell

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

IN THE MATTER OF APPLICATION FOR
TRANSFER NO. 89440 IN THE NAME OF
FRANK POWELL

DECLARATION OF COUNSEL IN SUPPORT
OF MOTION FOR NOTICE OF PROPOSED
DEFAULT

Megann E. Meier, hereby declares and states as follows:

1. I make this declaration pursuant to Idaho Code Section 9-1406 and I declare under penalty of perjury pursuant to the law of the State of Idaho that the following is true and correct.

2. I am one of the attorneys of record for Applicant Frank Powell ("Powell"). I have personal knowledge of the facts set forth herein, and make this Declaration on the basis of such personal knowledge and belief.

3. On October 18, 2024, Powell filed an Application for Transfer of Water Right with the Idaho Department of Water Resources ("IDWR"), which was assigned Transfer No. 89440 and which was later amended on March 10, 2025 ("Transfer").

4. On May 13, 2025, Rodney and Veronica Borgeman (“Borgemans”) filed a Notice of Protest against the Transfer.

5. On August 11, 2025, the Department issued a letter to Powell, the Borgemans, and a second set of protestants, Jeffrey and Linda Bass (“Basses”), to schedule an informal settlement conference pursuant to IDAPA 37.01.01.

6. Based upon the parties’ availability, the Department scheduled an Informal Settlement Conference for September 22, 2025. Notice of that conference was sent to all parties, including the Borgemans, on September 5, 2025. *See* Notice of Informal Settlement Conference, *Certificate of Service* (Sept. 5, 2025). That notice indicated that parties could attend the conference in person at the Department’s Western Region Office in Boise, or alternatively, could attend remotely via Webex or telephone. A true and correct copy of that notice is attached hereto as **Exhibit A**.

7. On September 22, 2025, the Borgemans did not attend the Informal Settlement Conference, either in person or remotely. All other parties and IDWR attended and participated in that conference.

8. During the conference on September 22, the participating parties agreed that a second conference on October 1, 2025 was necessary to potentially resolve the pending protests. On September 29, 2025, Western Region Manager Nick Miller sent an email to all parties—including the Borgemans—reminding them that a second conference was being held on October 1, 2025. Once again, the parties were informed that they could attend that conference either in person or remotely. True and correct copies of that correspondence is attached hereto as **Exhibit B**.

9. On October 1, 2025, the Borgemans did not attend the Informal Settlement Conference, either in person or remotely. All other parties and IDWR attended and participated in that conference.

10. Per the agreements reached by the participating parties at the October 1 conference, I prepared and circulated proposed stipulations to each set of protestants (*i.e.*, the Borgemans and the Basses) on October 7, 2025. A true and correct copy of my correspondence to the Borgemans is attached hereto as **Exhibit C**.

11. I did not receive a response from the Borgemans in response to my October 7 email.

12. Because the Basses requested certain revisions to the stipulation, I prepared and circulated a revised draft to each of the protestants on October 22, 2025. In my transmitting email to the Borgemans, I invited them to contact me if they had any questions or concerns about the language in the agreement. A true and correct copy of that correspondence is attached hereto as **Exhibit D**.

13. I did not receive a response from the Borgemans in response to my October 22 email.

14. Since that time, both my legal assistant and myself have sent follow-up emails to the Borgemans, inquiring into the status of the stipulation. True and correct copies of those emails are attached hereto as **Exhibit E**.

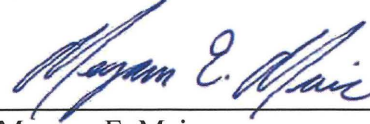
15. The Basses returned their signed stipulation to me on November 1, 2025, which was filed with IDWR on November 6, 2025.

16. To date, I have received no communication from the Borgemans.

Respectfully submitted this 13th day of November, 2025.

GIVENS PURSLEY LLP

By



Megann E. Meier
Attorneys for Frank Powell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of November, 2025, a true and correct copy of the foregoing document was filed and served on the following in the manner indicated:

DOCUMENT FILED:

Idaho Department of Water Resources
Western Regional Office
2735 W. Airport Way
Boise, ID 83705
E-file: file@idwr.idaho.gov

☐	U. S. Mail
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-file

SERVICE COPIES TO:

Jeff and Linda Bass
350 Middlefork Rd
Garden Valley, ID 83622-5022
lbass2@frontiernet.net

☒	U. S. Mail
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-mail

Rodney and Veronica Borgeman
352 Middlefork Rd
Garden Valley, ID 83622-5022
borgemanr@gmail.com

☒	U. S. Mail
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-mail

COURTESY COPIES TO:

Marcelina Riddle
Idaho Department of Water Resources
Western Regional Office
2735 W. Airport Way
Boise, ID 8 3705

☐	U. S. Mail
☐	Hand Delivered
☐	Overnight Mail
☐	Facsimile
☒	E-mail



Megann E. Meier

EXHIBIT A

EXHIBIT A

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

IN THE MATTER OF APPLICATION)	
FOR TRANSFER NO. 89440)	NOTICE OF INFORMAL
IN THE NAME OF)	SETTLEMENT CONFERENCE
FRANK POWELL)	
_____)	

On 10/18/2024, FRANK POWELL filed Application for Water Right Transfer No. 89440 with the Idaho Department of Water Resources (“Department”). Protests were filed by JEFFREY & LINDA BASS and RODNEY & VERONICA BORGEMAN.

The Department has scheduled this case for informal settlement conference on Monday, September 22, 2025 beginning at 1:00 PM at IDAHO DEPT OF WATER RESOURCES, WESTERN REGION, 2735 AIRPORT WAY BOISE, ID 83705. The applicant and protestants must attend.

To attend via computer or smartphone, please click the following Webex link and follow the prompts:
<https://idahogov.webex.com/idahogov/j.php?MTID=m55d334b8103bb3f6b953f4086857f404>

To attend via telephone, please dial **1-415-655-0001** (US Toll) and enter the following meeting access code when prompted: **2870 821 9799**

Agenda items for the informal settlement conference will include:

1. Review of the application and protests,
2. Additional informational needs,
3. Settlement options,
4. Need for additional informal proceedings or alternative dispute resolution options, and
5. Commencement of formal proceedings.

The Department encourages the applicant and protestants to discuss and resolve the protests before the informal settlement conference. If private discussions are not possible or do not resolve the protests, the informal settlement conference provides another opportunity for the applicant and protestants to meet before commencing a formal hearing. Parties often settle their differences at the informal settlement conference.

If informal proceedings are unlikely to resolve this contested case, the Department will initiate formal proceedings by issuing a notice of prehearing conference and identifying a

presiding officer. It is important for all parties to make the most of the opportunity to resolve the dispute informally.

The informal settlement conference will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the pre-hearing conference, please notify the Department at least ten (10) days prior to the conference. Inquiries about scheduling, hearing facilities, etc., should be directed to Lynne Evans at 208-605-4622.

Dated this 5th day of September 2025.



Lynne Evans
Administrative Assistant I

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of September 2025, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

FRANK POWELL
1069 W APPLE PINE ST
MERIDIAN ID 83646-6563
(208) 685-9897
frankpowell17@gmail.com
Applicant

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

MICHAEL P. LAWRENCE
MEGANN E. MEIER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720
(208) 388-1200
mpl@givenspursley.com
mem@givenspursley.com
Attorneys for Applicant

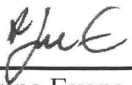
- ☐ U.S. Mail, Certified, postage prepaid
- ☐ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email

JEFFREY AND LINDA BASS
350 MIDDLEFORK RD
GARDEN VALLEY ID 83622-5022
(208) 462-3426
Protestants

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☐ Email

RODNEY AND VERONICA BORGEMAN
352 MIDDLEFORK RD
GARDEN VALLEY ID 83622-5022
(208) 849-2330
borgemanr@gmail.com
Protestants

- ☐ U.S. Mail, Certified, postage prepaid
- ☒ U.S. Mail, postage prepaid
- ☐ Overnight Mail
- ☒ Email



Lynne Evans
Administrative Assistant I

INFORMAL SETTLEMENT CONFERENCE PROCEDURE

APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues that the Idaho Department of Water Resources (Department) considers in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original water right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. Is the proposed transfer consistent with the requirements for municipal providers, if applicable?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 4 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

EXHIBIT B

EXHIBIT B

Stephanie White

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Monday, September 29, 2025 5:18 PM
To: Megann E. Meier; Michael P. Lawrence; borgemanr@gmail.com; lbass2@frontiernet.net
Cc: frankpowell17@gmail.com
Subject: RE: Powell Transfer 89440 [GP-DMS.016462.0003.FID1286954]

EXTERNAL

Thank you Megann. My notes say that as well. I apologize for the error.

NOTE: **THE CONFERENCE IS SCHEDULED FOR WEDNESDAY, OCTOBER 1st at 1:00 pm.** The previous message was incorrect.

NOTE: The information to attend the conference in person or by computer or phone was correct. The phone numbers, links, and meeting codes are correct as previously sent. I will still repeat that information below for your use:

When it's time, join your Webex meeting here.

Join meeting

More ways to join:

Join from the meeting link

<https://idahogov.webex.com/idahogov/j.php?MTID=m93ad1f48719acbd1132421719f7bc14b>

Join by meeting number

Meeting number (access code): 2634 248 5603

Meeting password: aCYgDNP3c72

Tap to join from a mobile device (attendees only)

+1-415-655-0001,,26342485603## US Toll

Join by phone

+1-415-655-0001 US Toll

[Global call-in numbers](#)

Join from a video system or application

Dial [26342485603@idahogov.webex.com](tel:26342485603)

You can also dial [173.243.2.68](tel:173243268) and enter your meeting number.

From: Megann E. Meier <mem@givenspursley.com>
Sent: Monday, September 29, 2025 4:55 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Michael P. Lawrence <mpl@givenspursley.com>; borgemanr@gmail.com; lbass2@frontiernet.net
Cc: frankpowell17@gmail.com
Subject: RE: Powell Transfer 89440 [GP-DMS.016462.0003.FID1286954]

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.

Hi Nick,

Thanks for the update. Regarding the date for the next conference, though, we wrote down and calendared Wednesday, October 1 at 1:00 p.m., rather than October 2. We can make Thursday, October 2 work as well, but I wanted to give you a heads up, in case that date doesn't work for everyone.

Thanks,

Megann

MEGANN E. MEIER
GIVENS PURSLEY LLP
601 W Bannock St, Boise, ID 83702
P.O. Box 2720 (83701)
main 208-388-1200
direct 208-388-1251
fax 208-388-1300
mem@givenspursley.com
www.givenspursley.com

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From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Monday, September 29, 2025 4:36 PM
To: Michael P. Lawrence <mpl@givenspursley.com>; borgemanr@gmail.com; lbass2@frontiernet.net
Cc: Megann E. Meier <mem@givenspursley.com>; frankpowell17@gmail.com
Subject: RE: Powell Transfer 89440 [GP-DMS.998034.PERSONAL.FID326327]

EXTERNAL

Dear Parties,

At the last conference we discussed a follow-up conference to be held this week, and I committed to distributing a summary of the nature of use change calculations for this application. The conference information is included below. I do not have complete calculations to distribute due to some uncertainty in the pond dimensions and some other details that need to be sorted out before we can provide that information with a good level of confidence that it would match an approval. I expect we will have a better handle and can discuss at the conference. Please plan to attend either in person or remotely.

The conference will be held at 1:00 pm on Thursday, October 2, 2025. You may attend in person at IDWR's Western Regional Office (2735 W Airport Way, Boise) or you may attend remotely by computer or telephone using the information below:

When it's time, join your Webex meeting here.

Join meeting

More ways to join:

Join from the meeting link

<https://idahogov.webex.com/idahogov/j.php?MTID=m93ad1f48719acbd1132421719f7bc14b>

Join by meeting number

Meeting number (access code): 2634 248 5603

Meeting password: aCYgDNP3c72

Tap to join from a mobile device (attendees only)

+1-415-655-0001,,26342485603## US Toll

Join by phone

+1-415-655-0001 US Toll

[Global call-in numbers](#)

Join from a video system or application

Dial [26342485603](tel:26342485603)@idahogov.webex.com

You can also dial [173.243.2.68](tel:173243268) and enter your meeting number.

From: Michael P. Lawrence <mpl@givenspursley.com>

Sent: Friday, September 26, 2025 3:14 PM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Cc: Megann E. Meier <mem@givenspursley.com>

Subject: Powell Transfer 89440 [GP-DMS.998034.PERSONAL.FID326327]

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Nick,

At the informal settlement conference this week you said you would send the parties IDWR's pond calculations. I don't think I've seen that yet. Apologies if I missed it.

If you haven't sent it yet, can you please send it soon so we have time to review before next week's meeting?

Thanks,
Mike

PS: I don't have the protestants' email addresses or else I would have copied them on this email.

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 West Bannock Street, Boise, ID 83702
main 208-388-1200
direct 208-388-1294
fax 208-388-1300
mpl@givenspursley.com
www.givenspursley.com

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EXHIBIT C

EXHIBIT C

Stephanie White

From: Megann E. Meier
Sent: Tuesday, October 7, 2025 9:54 AM
To: borgemanr@gmail.com
Cc: Michael P. Lawrence
Subject: Powell Transfer Application, Stipulation Agreement [GP-DMS.016462.0003.FID1286954]
Attachments: Stipulation to Resolve Protest (Borgeman).pdf

Good morning Mr. and Mrs. Borgeman,

As discussed at the settlement conference last week, I am circulating a stipulation agreement for your review and signature. In preparing this, we made sure to incorporate the quantities/conversions arrived at and discussed with the Department. We also prepared separate stipulations, as requested by Mr. Bass during the conference.

Please let me know if you have any questions, or any difficulty opening this document.

Thanks,

Megann

MEGANN E. MEIER

GIVENS PURSLEY LLP

601 W Bannock St, Boise, ID 83702

P.O. Box 2720 (83701)

main 208-388-1200

direct 208-388-1251

fax 208-388-1300

mem@givenspursley.com

www.givenspursley.com

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EXHIBIT D

EXHIBIT D

Stephanie White

From: Megann E. Meier
Sent: Wednesday, October 22, 2025 2:47 PM
To: borgemanr@gmail.com
Cc: Michael P. Lawrence
Subject: Revised stipulation agreement [GP-DMS.016462.0003.FID1286954]
Attachments: Stipulation to Resolve Protest (Borgeman)(UPDATED).pdf

Good afternoon Mr. and Mrs. Borgeman,

Per Mr. Bass's discussion with Mike Lawrence earlier, we have removed the second sentence from the attorney fees provision. An updated version of the stipulation is attached. Please review and sign, if this looks acceptable to you. If not, please let me know and we will discuss.

Thank you, and have a great rest of your day,

Megann

MEGANN E. MEIER

GIVENS PURSLEY LLP

601 W Bannock St, Boise, ID 83702

P.O. Box 2720 (83701)

main 208-388-1200

direct 208-388-1251

fax 208-388-1300

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www.givenspursley.com

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EXHIBIT E

EXHIBIT E

Stephanie White

From: Stephanie White
Sent: Friday, November 7, 2025 1:34 PM
To: 'borgemanr@gmail.com'
Cc: Megann E. Meier
Subject: RE: Stipulation agreement
Attachments: Updated Stipulation to Resolve Protest (Borgeman)_19207462_1.pdf

Good afternoon,

I wanted to follow up on Megann's email below. We have received the signed stipulation from the Basses and wanted to check on the status of your signatures. I've attached the stipulation again for your convenience. Please let me know if you have any questions or concerns.

Thank you!

STEPHANIE WHITE
LEGAL ASSISTANT TO MEGANN E. MEIER
GIVENS PURSLEY LLP
601 W Bannock St, Boise, ID 83702
main 208-388-1200
direct 208-388-1234
fax 208-388-1300
stephaniew@givenspursley.com
www.givenspursley.com

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From: Megann E. Meier
Sent: Friday, October 31, 2025 2:47 PM
To: borgemanr@gmail.com
Cc: Michael P. Lawrence <mpl@givenspursley.com>
Subject: Stipulation agreement [GP-DMS.016462.0003.FID1286954]

Good afternoon,

I wanted to check in about the status of the stipulation agreement. Did you have any concerns you would like to talk through, or were you able to sign? I realize it could be in the mail right now, and I just haven't seen it yet.

Anyway, just wanted to touch base real quick. As I understand things, Frank has an offer on his property and there are concerns from the potential buyer about the existing administrative dispute.

Thanks, and Happy Halloween,

Megann

MEGANN E. MEIER

GIVENS PURSLEY LLP

601 W Bannock St, Boise, ID 83702

P.O. Box 2720 (83701)

main 208-388-1200

direct 208-388-1251

fax 208-388-1300

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www.givenspursley.com

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