

Miller, Nick

From: Miller, Nick
Sent: Wednesday, August 20, 2025 9:31 AM
To: fwprice@blm.gov; beckermarshall@gmail.com
Subject: Withdrawal of BLM Petition Transfer No. 89326
Attachments: 20250820-Withdrawal Ack Ltr.pdf

Please see the attached letter acknowledging BLM's withdrawal of its petition.

Nick Miller
Manager, IDWR Western Region



IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 20, 2025

VIA EMAIL

US DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ATTN: FRED PRICE
1387 S VINNELL WAY
BOISE, ID 83709-1657
fwprice@blm.gov

MARSHALL W. BECKER AND/OR
JEANETTE A. BECKER
31383 MUD FLAT RD
GRAND VIEW ID 83624-5049
beckermarshall@gmail.com

RE: Withdrawal of BLM Petition Transfer No. 89326

Dear Parties:

This letter acknowledges the August 18, 2025, withdrawal of the July 15, 2025, petition filed by the United States Bureau of Land Management (BLM) in the matter of Transfer No. 83926. The attached letter withdraws the pleading pursuant to Rule 303 of the Idaho Department of Water Resources Rules of Procedure (IDAPA 37.01.01). This action resolves the contested case created by BLM's filing.

A copy of the petition and the withdrawal letter are attached for reference. Please contact me if you have further questions.

Sincerely,

Nick Miller
Manager, IDWR Western Region

Attachment – 7 pages



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657



In Reply Refer To:
7250 (933b)
Application Transfer No. 89326

RECEIVED
AUG 18 2025
WATER RESOURCES
WESTERN REGION

August 18, 2025

Nick Miller, Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

**RE: Withdrawal of BLM Petition:
Application for Transfer No. 89326 f/b Marshal W. Becker**

Dear Mr. Miller:

By this letter, I state that I have the authority to act on behalf of the United States Department of the Interior, Bureau of Land Management (BLM), with myself as its agent, to the matters discussed herein.

On July 15, 2025, BLM filed a Petition in response to the issuance of Approved Transfer 89326 on November 26, 2024 because this Point of Diversion (POD) only transfer added Places of Use (POU) on federal land without notice or authorization.

On July 28, 2025, Marshal W. & Jeanette A. Becker ("Applicants") filed *Notice of Abandonment of Water Right (Notice)* related to the water rights involved in Approved Transfer 89326. The *Notice* partially abandons portions of twenty five (25) water rights to remove twenty (20) POUs describing 97 acres of federal land from the overall Permissible POU (PPU). The partial abandonment states that this does not intend to reduce the diversion rate, or total number of acres irrigated, but IDWR will have to figure that out.

Affected Water Rights: 25

57-01202, 57-01205, 57-01207, 57-01222A, 57-02108, 57-02285A, 57-02285B, 57-07010A, 57-07036, 57-07037, 57-07184A, 57-07331A, 57-07333A, 57-11886, 57-11887, 57-11888, 57-11889, 57-11890, 57-11891, 57-11892, 57-11893, 57-11894, 57-11895, 57-11896, and 57-11897.

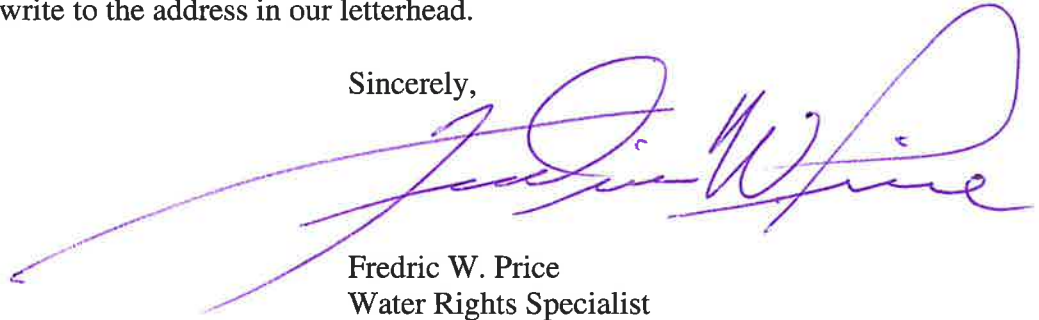
BLM POUs Removed from PPU: 20

T06S, R03E, S22,	SENE,	SWSE	
S23,	NWSE		
S26,	SWNE,	SENE,	NWSW
S27,	NWNE,	SWNE,	SESE
S34,	SWNE,	SENE,	NWSW, SWSW
S35,	NWSW,	SWSW	
T07S, R03E, S03,	SWNE,	SWNW,	SENE
S04, Lot 2 (NWNE),	NESE		

The July 28th *Notice* resolves BLM's issues raised in the Petition. I hereby withdraw BLM's Petition, provided that there are no subsequent amendments made without notice to the BLM, and the BLM has the opportunity to participate.

If there are questions regarding any statements above, please do not hesitate to contact me at (208) 373-3831, or write to the address in our letterhead.

Sincerely,

A handwritten signature in purple ink, appearing to read "Fredric W. Price", is written over the typed name and title.

Fredric W. Price
Water Rights Specialist

cc:

Marshall W. & Jeanette A. Becker, 31383 Mud Flat Rd, Grand View, ID 83624-5049

Aaron P. Rasmussen, Field Manager, BLM, Bruneau Field Office, 3948 S. Development Ave, Boise, Idaho 83705

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 RECEIVED

JUL 16 2025

JUL 15 2025

WATER RESOURCES
WESTERN REGION DEPT. OF WATER RESOURCES

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

IN THE MATTER OF TRANSFER NO. 89326)
IN THE NAME OF MARSHALL W.) **PETITION**
BECKER.)
_____)

On November 26, 2024, the Idaho Department of Water Resources ("IDWR") issued an approved Transfer No. 89326 (involving water rights 57-01202, 57-02285A, 57-02285B, 57-07010A, 57-07036, 57-07037, 57-07184A, 57-07333A, 57-11886, 57-11887, 57-11888, 57-11889, 57-11890, 57-11892, 57-11893, 57-11894, 57-11895, 57-11896, and 57-11897) to Marshall W. Becker ("Applicant"). The United States of America, Department of Interior, Bureau of Land Management ("BLM") respectfully files this Petition regarding issuance of Transfer No. 89326 pursuant to the IDWR rules of procedure IDAPA 37.01.01.730.02 and I.C. 42-1701A(3).

BLM had protested a previous Application for Transfer (Transfer No. 83773) where eight POUs were described on land owned by BLM. Pursuant to settlement, the application was amended to remove POUs describing federal land and correcting the POU boundary map to exclude federal land. Three of the removed POUs from Transfer 83773 (T06S, R03E, S34, SENE, SWNE and T07S, R03E, S04, NWNE) appear on Approved Transfer No. 89326. These

legal land descriptions were not listed in the initial application for 89326.

Application for Transfer No. 89326 was filed with IDWR on July 24, 2024, by Marshall W. Becker. The application filed asked to change and add a Point of Diversion ("POD") only and did not seek to alter the Place of Use ("POU"). The requested POD (T06S, R03E, S22, SESE) is private and belongs to the Applicant. The approved transfer introduced new POUs that describe land entirely on federal land:

T06S, R03E:

S22: SENE, SWSE

S23: NWSE

S26: SWNE, SENW, NWSW

S27: NWNE, SWNE, SESE

S34: SWNE, SENE, NWSW, SWSW

S35: NWSW, SWSW

T07S, R03E:

S03: SWNE, SWNW, SENW

S04: NWNE, NESE

The approved transfer is the first appearance of the added federal land to the POU. The pre-transfer description of the POU element within the water rights included in the transfer did not include POUs on federal land. Transfer application 89326 was a POD-only transfer that did not seek to make changes to the POU. IDWR did not require the Applicant to amend Transfer 89326 in order to change the POU, nor did IDWR seek to advertise the changes in the newspaper. Neither did IDWR advertise the original transfer. Notice of this transfer is defective.

The water rights under Transfer No. 89326 are for Irrigation of 1434.0 acres with a combined total diversion rate of 13.474 cfs. The claimant is not authorized to conduct irrigated agricultural activities on federal land. The introduction of different or additional legal land descriptions is a substantial amendment requiring notice to be published. BLM petitions against the defective notice for the approval of Transfer No. 89326. Changes to the POU were never asked for in the application for transfer. Previous encroachment onto federal land was withdrawn by the Applicant in a settlement of Transfer 83773.

BLM respectfully requests that IDWR remove the POUs describing federal land above from Transfer No. 89326 because the Applicant does not have legal access to conduct this use of BLM land. It is not in the local public interest for IDWR to authorize a use of water established in trespass.

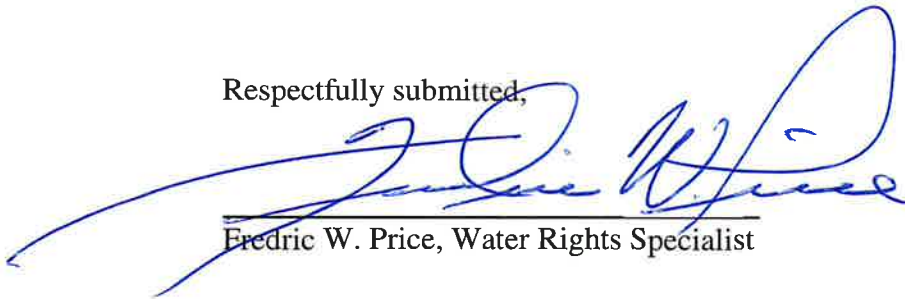
Under state law a water right cannot be established in trespass (see *In Re General Determination of Rights to Use of Surface and Ground Waters of Payette River*, 107 Idaho 221, 687 P.2d 1348, 1353 (1984); *Lemmon v. Hardy*, 95 Idaho 778, 519 P.2d 1168 (1974); *Reed v. Morton*, 480 F.2d 634 (9th Cir. 1973); *Jones v. McIntire*, 60 Idaho 338, 91 P.2d 373 (1939); *Bachman v. Reynolds Irrigation Dist.*, 56 Idaho 507, 55 P.2s 1314 (1936); *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931); *Short v. Praisewater*, 35 Idaho 691, 208 P. 844 (1922); *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920); and *King v. Chamberlin*, 20 Idaho 504, 118 P. 1099 (1911)).

//

//

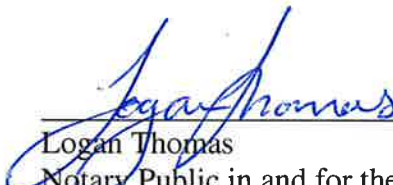
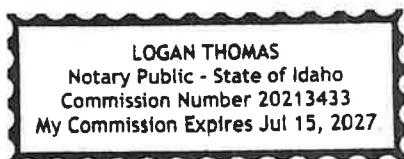
//

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. 89326** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

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

Copies to:

Marshall W. Becker & Jeanette A. Becker
31383 Mud Flat Road
Grand View, Idaho 83624-5049

Ammon Wilhelm, Field Manager
U.S.D.I., BLM
Owyhee Field Office
101 South Bruneau Highway
Marsing, Idaho 83639



Signature of Person Serving Documents