

RECEIVED

NOV 20 2009

DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

November 18, 2009

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls ID 83301

**RE: Point of Rocks Ranch, LLC – Application for Transfer of Water Rights Nos.
37-2591 and 37-4427**

Dear Allen:

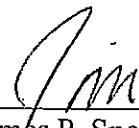
Enclosed you will find the original and a copy of the above-referenced Application for Transfer of Water Right. The Application is being filed to resolve an encroachment on BLM land that arose during the course of the SRBA proceedings for these two water rights. Kelly Christensen has been working with me on the Application and I am providing him with a copy. Please have your staff receipt-date stamp the copy and return it to me in the postage pre-paid self-addressed envelope included herein for that purpose. Kindly call me right away if you have any questions.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: _____


James P. Speck

Enclosures

CC w/ Encl: Client
David Negri
Fred Price
Chris Bromley
Kelly Christensen

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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 <http://www.idwr.idaho.gov/>.

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 #1-9.

- ☐ ☒ #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 transfer 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).
- ☐ ☒ #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 <http://www.idwr.idaho.gov/water/rights/>.
- ☐ ☐ #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.
- ☐ ☒ #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.)
- ☐ ☒ #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 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) POINT OF ROCKS RANCH, LLC Phone (208) 726-1725

Mailing address PO Box 9320, Ketchum, ID 83340 Email john.french@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.

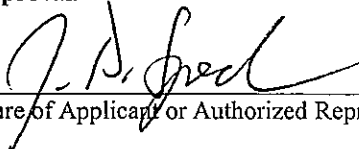
☐ No Representative

Name of Representative James P. Speck Phone (208) 726-4421

Mailing address PO Box 987, Ketchum, ID 83340 Email jim@speckandaanestad.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.

	_____	<u>11-18-09</u>
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	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. 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.2**. SRBA recommendations include encroachment on BLM land. That portion of the water rights will be transferred to other lands owned by Applicant

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 ☒ ☐	37-2591	1.54 cfs	irrigation	4/15 to 10/31	ground water
☒ ☐	37-4427	1.0 cfs	irrigation	4/15 to 10/31	ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.54 cfs and/or 444.5 ac-ft

2. Total amount of water proposed to be transferred or changed 2.54 cubic feet per second and/or 444.5 acre-feet per annum.

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	
1S	20E	15											39.0	15.0					54.0
1S	20E	16													2.5		1.1	23.9	27.5
1S	20E	22					20.5	25.0											45.5

Total Acres (for irrigation use) 127.0

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: Well, pivot and handline sprinkler irrigation systems

- b. Who owns the property at the point(s) of diversion? Applicant
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: _____

- 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: _____

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. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: It is BLM land and will no longer be irrigated.

- e. 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: _____

- f. 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: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a Part 2A report obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/> , Water Right Transfers, Step 1.
Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the Part 2B form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: _____

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

[illegible]

Total Acres (for irrigation use)

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

Current Water Right No.: 37-2591

Current Owner: POINT OF ROCKS RANCH LLC

Priority Date: 12/24/1956

Origin: Adjudication Recommendation

Status: Active

Basis: License

Source

GROUND WATER

Tributary

Beneficial Use

IRRIGATION

From To

04/15 to 10/31

Total Diversion

Diversion Rate

1.54 CFS

1.54 CFS

Annual Volume

Location of Point(s) of Diversion

GROUND WATER

BLAINE County

NE1/4SW1/4SE1/4

Sec. 16, Twp 01S, Rge 20E B.M.

Place of Use

IRRIGATION Within BLAINE County

T01S R20E S15	NWSW	4.00	T01S R20E S15	SWSW	39.00
T01S R20E S15	SESW	15.00	T01S R20E S16	NESE	2.50
T01S R20E S16	SESE	21.00	T01S R20E S22	NENW	20.50
T01S R20E S22	NWNW	25.00			

Total Acres: 127

Conditions of Approval:

1. 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.
2. K06 This right is limited to the irrigation of 77 acres within the place of use described above in a single irrigation season.
3. E54 The rights listed below are limited to a total combined annual diversion volume of 444.5 af. Combined Right Nos.: 37-2591 and 37-4427.

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

Current Water Right No.: 37-4427

Current Owner: POINT OF ROCKS RANCH LLC
 Priority Date: 10/31/1961
 Origin: Adjudication Recommendation
 Status: Active
 Basis: Beneficial Use

Source	Tributary
GROUND WATER	
Beneficial Use	From To
IRRIGATION	04/15 to 10/31
	Total Diversion
	1 CFS
	1 CFS
Location of Point(s) of Diversion	
GROUND WATER	NE1/4SW1/4SE1/4
BLAINE County	Sec. 16, Twp 01S, Rge 20E B.M.

Place of Use

IRRIGATION Within BLAINE County

T01S R20E S15	NWSW	4.00	T01S R20E S15	SWSW	39.00
T01S R20E S15	SESW	15.00	T01S R20E S16	NESE	2.50
T01S R20E S16	SESE	21.00	T01S R20E S22	NENW	20.50
T01S R20E S22	NWNW	25.00			

Total Acres: 127

Conditions of Approval:

1. 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.
2. K06 This right is limited to the irrigation of 50 acres within the place of use described above in a single irrigation season.
3. E54 The rights listed below are limited to a total combined annual diversion volume of 444.5 af. Combined Right Nos.: 37-2591 and 37-4427.

**SPECIAL POWER OF ATTORNEY
(WATER RIGHTS)**

POINT OF ROCKS RANCH, L.L.C. ("Point of Rocks"), an Idaho limited liability company, designates and appoints JAMES P. SPECK, of Ketchum, Idaho, as Point of Rocks' attorney in fact and agent (subsequently called "Agent") to act in Point of Rocks' name and for Point of Rocks' benefit for the specific purposes stated herein only. Point of Rocks grants to its Agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as Point of Rocks might or could do if personally present and fully competent, hereby ratifying and confirming all that Point of Rocks' Agent shall lawfully do or cause to be done by virtue of this Special Power of Attorney and the powers herein granted.

1. SPECIFIC GRANT OF POWER. Point of Rocks' agent shall have power to exercise or perform any act, power, duty, right or obligation whatsoever that Point of Rocks now has or may hereafter acquire, RELATING ONLY TO the preparation and filing of claims for water rights in Twin Falls County District Court Civil No. 39576, In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System, and the preparation and filing of applications for permits to or transfers of water rights, or claims to water rights, with the Idaho Department of Water Resources.

2. REVOCABILITY. This Special Power of Attorney is revocable, provided, that insofar as any governmental agency, bank, trust company, insurance company, transfer agent, or other person shall rely upon this power, this power may be revoked only by a notice in writing executed by me or Point of Rocks' Agent and delivered to such person or institution.

3. INTERPRETATION. This instrument is to be construed and interpreted as a Special Power of Attorney and shall be limited in accordance herewith.

4. THIRD-PARTY RELIANCE. Third parties may rely upon the representations of the Agent as to all matters relating to any power granted to Point of Rocks' Agent, and no person who may act in reliance upon the representations of the Agent or the authority granted to Point of Rocks' Agent shall incur any liability to Point of Rocks as a result of permitting the Agent to exercise any power.

5. GOVERNING LAW. This Special Power of Attorney is executed and delivered in the State of Idaho and the laws of the State of Idaho shall govern all questions as to the validity of this power and as to the construction of its provisions.

6. COUNTERPARTS. This Special Power of Attorney may be executed in counterparts. Each executed counterpart of this Special Power of Attorney shall have the force and effect of this original.

IN WITNESS WHEREOF, Point of Rocks has executed this Special Power of Attorney this 11 day of March, 2003.

POINT OF ROCKS RANCH, L.L.C.

By:

John K. French
John K. French, manager

STATE OF IDAHO)
County of Blaine)

ss.

On this 11th day of March, 2003, before me, the undersigned notary public in and for said state, personally appeared John K. French, known or identified to me to be the manager of POINT OF ROCKS RANCH, L.L.C. and the person who executed the foregoing instrument on behalf of said limited liability company and acknowledged to me that said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

J. P. Speck
Notary Public for Idaho

Residing at: Blaine, Idaho

Commission expires: 1/29/2008

