

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85938**

This is to certify that: GREGORY J FOSTER GST EXEMPT TRUST
PO BOX 633
PICABO, ID 83348

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
37-1224C	WR/DECREED	12/28/1932	0.200 cfs	N/A	N/A	13.7	SILVER CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
37-1224C	NO	NO	YES	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
37-1224C	37-1224C	0.200 cfs	N/A	N/A	13.7	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.200 cfs	N/A	N/A	13.7		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 12th day of April, 2022.



Southern Region Manager

Transfer No. 85938

WATER RIGHT NO. 37-1224C
As Modified by Transfer No. 85938

In accordance with the approval of Transfer No. 85938, Water Right No. 37-1224C is now described as follows:

Right Holder: GREGORY J FOSTER GST EXEMPT TRUST
 PO BOX 633
 PICABO, ID 83348

Priority Date: 12/28/1932

Source: SILVER CREEK

Tributary: LITTLE WOOD RIVER

BENEFICIAL USE

IRRIGATION

From

04/15

to 10/31

To

Diversion Rate

0.200 cfs

0.200 cfs

LOCATION OF POINT(S) OF DIVERSION

SILVER CREEK

NESESW

Sec 36 Twp 01S Rge 20E BLAINE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	20E	36									0.9			1.6		4	7.2		13.7

POU Total Acres: 13.7

CONDITIONS OF APPROVAL

1. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 37.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
4. Water from this right resulted from developed water in Silver Creek.
5. Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed water in Silver Creek, as established by and subject to the provisions included within In Re Brett et al. v. S.H. Chapman, Watermaster (Lincoln County, December 28, 1932).
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 85938

WATER RIGHT NO. 37-1224C
As Modified by Transfer No. 85938

CONDITIONS OF APPROVAL

7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.



State of Idaho
Department of Water Resources
Attachment to Transfer # 85938
37-1224C

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

20E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles



MAR 11 2022

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 85938**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 idwr.idaho.gov.

Name of Applicant(s) Gregory J Foster GST Exempt Trust

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 #1-10.

- ☐ ☒ #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 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). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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 <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☐ ☒ #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. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #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.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☒ #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 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

Amended

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 11 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Gregory J Foster GST Exempt Trust Phone 949.235.4734
Mailing address P.O. Box 633, Picabo, Idaho 83348 Email _____

- ☐ 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 Michael A. Short Barker Rosholt & Simpson Phone 208.336.0700
Mailing address P.O. Box 2139, Boise, ID 83701-2139 Email mas@idahowaters.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.


Signature of Applicant or Authorized Representative

Michael Short
Print Name and Title if applicable

3-11-2022
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. Is this a transfer for changes pursuant to Idaho Code § 42-221.0.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.
3. 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.3**.
This proposal is in response to concerns from IDWR of overwatering on Applicants land. After discussion with IDWR, it was determined that the current POU is poorly drawn and encompasses land which is not irrigated while excluding land which is. This application is meant to correct the discrepancies in POU and accurately define where Applicant is irrigating land. See addendum Part 1A.3

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED 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.	<u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
All or Part ☒ ☐	37-1224C	0.2 cfs	Irrigation	4/15 to 10/31	Silver Creek
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.2 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.2 cubic feet per second and/or _____ acre-feet per year.

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	
01S	20E	36									0.9			1.6		4	7.2		13.7
Total Acres (for irrigation use)																			13.7

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**AMENDED 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:
Pump in Silver Creek, Mainline to Sprinklers
-
- 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: N/A
-
- 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. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?
If yes, ☐ complete Attachment WSB.
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
This application proposes a change in the place of use to reflect the current irrigating practices on that parcel of land.
There will be no effect therefore, on the land now irrigated under this transfer.
Except, Applicant has taken and will take measures to restrict irrigation of a "rocky outcrop" area in the NW corner of the land.
- f. 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:
None.
-
- g. 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:

Amended

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

3/14/2022

Water Right 37-1224C

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GREGORY J FOSTER GST EXEMPT TRUST PO BOX 388 DANA POINT, CA 92629-0388 (949) 235-4734
Original Owner	JERI L JENSEN 530 OVERLAKE DR E BELLEVUE, WA 98004 (206) 454-8577
Original Owner	C JAMES JENSEN 530 OVERLAKE DR E BELLEVUE, WA 98004 (206) 454-8577
Original Owner	LAWRENCE SCHOEN PO BOX 689 BELLEVUE, ID 83313 (208) 788-2938
Previous Owner	THE FOSTER FAMILY TRUST PO BOX 633 PICABO, ID 83348
Trustee	GREGORY JAMES FOSTER PO BOX 388 DANA POINT, CA 92629-0388 (949) 235-4734

Priority Date: 12/28/1932

Basis: Decreed

Status: Active

Source
SILVER CREEK

Tributary
LITTLE WOOD RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	10/31	0.200 CFS	
	<u>Total Diversion</u>		0.200 CFS	

Source and Point(s) of Diversion:

SILVER CREEK NESESW Sec. 36, Twp 01S, Rge 20E, BLAINE County

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

3/14/2022

Place Of Use:

IRRIGATION within BLAINE County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	20E	36									1.1			0.8		4.2	7.6		13.7

POU Total Acres: 13.7

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. Property also known as Lot 2, Hofstetter Subdivision.
3. M01 A measuring device of a type approved by IDWR shall be maintained as a part of the diverting works.
4. 156 Water from this right resulted from developed water in Silver Creek.
5. 157 Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed water in Silver Creek, as established by and subject to the provisions included within In Re Brett et al. v. S.H. Chapman, Watermaster (Lincoln County, December 28, 1932).
6. E62 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 AFA per acre for the lands listed above.
7. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE DISTRICT NO. 37.

Dates and Other Information:

Decreed Date: 8/5/2010
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: AND
Water District Number: 37
Mitigation Plan: False

Combined Use Limits:

N/A

SubCase:

N/A

Water Supply Bank:

N/A

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Amended

Part 1 A.3

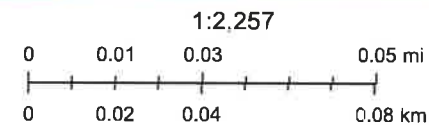
In addition to the change in POU in order to correct the actual area being irrigated. One issue identified by the Department in prior correspondences was a 'rocky outcrop' in the north-east corner of the property. This area was deemed as being irrigated by the Department, but that land is unable to be farmed. In order to rectify this problem, Applicant proposes to turn off the end-gun of this pivot when it reaches the rocky outcrop and turn it on when it passes; this is easily done. This would keep the pivot from irrigating that area and keep Mr. Foster's POU at or below the 13.7 acres he is authorized to irrigate.

13.7 acres - PLSS



3/11/2022, 2:24:16 PM

- ESPA Model Outline
- Section
- Quarter Quarter
- Township/Range



Esri, HERE, GeoTechnologies, Inc., Maxar, Microsoft, Esri, HERE, Garmin,

Transfer No. 85938

Esri, HERE, GeoTechnologies, Inc. | Maxar, Microsoft | USGS TNM – National Hydrography Dataset. Data Refreshed January, 2022. | Idaho Department of Water Resources | Esri, HERE, Garmin, GeoTechnologies, Inc. |

Web AppBuilder for ArcGIS

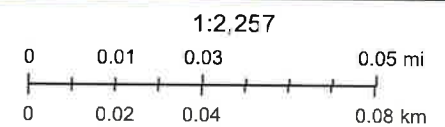
13.7 acres

Amended



3/11/2022, 2:19:27 PM

 ESPA Model Outline



Esri, HERE, GeoTechnologies, Inc., Maxar, Microsoft, Esri, HERE, Garmin,

Transfer No. 85938

Esri, HERE, GeoTechnologies, Inc., Maxar, Microsoft | USGS TNM – National Hydrography Dataset. Data Refreshed January, 2022. | Idaho Department of Water Resources | Esri, HERE, Garmin, GeoTechnologies, Inc. | Web AppBuilder for ArcGIS

RECEIVED

MAR 03 2022

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 85938MINIMUM 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 idwr.idaho.gov.

Name of Applicant(s) Gregory J Foster GST Exempt Trust

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 #1-10.

- ☐ ☒ #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.)
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** Additional fee(s) required for water right ownership changes; see fee schedule.
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- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. (Attachment WSB)
- ☐ ☒ #10 Other. Please describe: _____

Superseded

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 03 2022

DEPT OF WATER RESOURCES
SOUTHERN REGION

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

Name of Applicant(s) Gregory J Foster GST Exempt Trust Phone 949.235.4734
Mailing address P.O. Box 633, Picabo, Idaho 83348 Email _____

- ☐ 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**.
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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 Michael A. Short Phone 208.336.0700
Mailing address P.O. Box 2139, Boise, ID 83701-2139 Email mas@idahowaters.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.

 Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date 2/25/22

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. Is this a transfer for changes pursuant to Idaho Code § 42-221.0.8?
If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.2**.

3. 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.3**.

This proposal is in response to concerns from IDWR of overwatering on Applicants land. After discussion with IDWR, it was determined that the current POU is poorly drawn and encompasses land which is not irrigated while excluding land which is. This application is meant to correct the discrepancies in POU and accurately define where Applicant is irrigating land.

Super Seeded

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	37-1224C	0.2 cfs	Irrigation	4/15 to 10/31	Silver Creek
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 0.2 cfs cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.2 cubic feet per second and/or _____ acre-feet per year.

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	
01S	20E	36									0.6			1.6		3.9	7.0		13.1
Total Acres (for irrigation use)																			13.7

Superseded

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:

Pump in Silver Creek, Mainline to Sprinklers

- 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: N/A

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. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete Attachment WSB.

- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

This application proposes a change in the place of use to reflect the current irrigating practices on that parcel of land.
There will be no effect therefore, on the land now irrigated under this transfer.

Except, Applicant has taken and will take measures to restrict irrigation of a "rocky outcrop" area in the NW corner of the land.

- f. 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:

None.

- g. 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:

Superseded

Superseded

Superseded

Part 1 A.3

In addition to the change in POU in order to correct the actual area being irrigated. One issue identified by the Department in prior correspondences was a 'rocky outcrop' in the north-east corner of the property. This area was deemed as being irrigated by the Department, but that land is unable to be farmed. In order to rectify this problem, Applicant proposes to turn off the end-gun of this pivot when it reaches the rocky outcrop and turn it on when it passes; this is easily done. This would keep the pivot from irrigating that area and keep Mr. Foster's POU at or below the 13.7 acres he is authorized to irrigate.

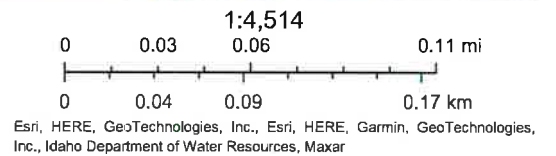
Superseded

Acreage Map_13.1 acres with break down



2/8/2022, 3:31:29 PM

- ESPA Model Outline
- Section
- Quarter Quarter
- Township/Range





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

April 12, 2022

GREGORY J FOSTER GST EXEMPT TRUST
PO BOX 633
PICABO ID 83348

Re: Transfer No: 85938
Water Right No(s): 37-1224C

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

MICHAEL A SHORT
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139

WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2022 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 85938
Water Right No(s): 37-1224C

GREGORY J FOSTER GST EXEMPT TRUST
PO BOX 633
PICABO ID 83348

MICHAEL A SHORT
BARKER ROSHOLT & SIMPSON LLP
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139

WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

M E M O R A N D U M

Date: April 6, 2022
To: Gregory J Foster GST Exempt Trust #85938
From: Tyler Wallace
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the place of use (POU) for one irrigation right with a flow rate of 0.2 cfs, which currently irrigate 13.7 acres located approximately 4.0 miles west and 0.75 miles south from the intersection of Highway 20 and Highway 26 in Carey, ID. The proposed POU will modify the existing POU to reflect changes in the irrigation system.

The transfer is in Water District 37 so Watermaster comments were solicited. The watermaster had no objections to the transfer. Advertising is not necessary because the transfer will only change the POU of land contiguous to the present POU.

- **Authority to File:**
The Department's database indicates that water right 37-1224C is owned by the Gregory J Foster GST Exempt Trust with Gregory James Foster as Trustee. The application was signed by Gregory J. Foster.
- **Water Right Validity:**
The water right was decreed in the SRBA in 2010 and ample irrigation is evident at the current POU, so forfeiture is likely not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The POD is not moving and there is no increase in volume or acres.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

State of Idaho
Department of Water Resources
RECOMMENDATION FORM

RECEIVED
APR 06 2022
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Re: Transfer No. 85938

Water Right No(s): 37-1224C

Transfer Applicant's Name: GREGORY J FOSTER, GST EXEMPT TRUST
PO BOX 633
PICABO ID 83348-0633

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) _____ Additional comments:

Dated this 6 day of April, 2022

Water District 37

Cyndi McCowan
Assistant Watermaster
Cyndi McCowan

Printed Name

Maline, Denise

From: Maline, Denise
Sent: Wednesday, April 6, 2022 11:12 AM
To: Cyndi or Sunny (WD37); Water District 37
Subject: Comment Letter for Transfer No. 85938 (Foster)
Attachments: Comment letter to WD37 for 85938.docx; Transfer No. 85938 (Greg Foster).pdf

Good morning,

Attached is an application for transfer currently being processed by the department. Please review the application and provide any necessary comments within 21 days.

If you have any questions regarding these applications, please feel free to contact our office.

Thank you in advance,

Denise @ IDWR

Denise Maline, Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov



IDAHO DEPARTMENT
WATER RESOURCES

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Governor Brad Little

Director Gary Spackman

April 6, 2022

WATER DISTRICT 37
107 W 1ST ST
SHOSHONE ID 83352

RE: Transfer No. 85938 (Gregory Foster, GST Exempt Trust)

Dear Brian:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at:

<https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

FEE MEMORANDUM

Date: March 21, 2022
To: Gregory J Foster GST Exempt Trust #85938
From: Tyler Wallace
Re: Receipting/disposition of fees paid

This transfer was filed on March 3, 2022, with the purpose to change the place of use for one irrigation right. The flow rate of the water right being transferred is 0.2 cfs so the corresponding fee from the transfer fee schedule is \$200.00. Because the associated fee is in the lowest fee category, the fee would not change based on the number of acres changing in the POU. The fee was paid by check #1727 from Barker Rosholt & Simpson LLP at the time of filing. The IDWR receipt number is S039107. The fee was paid at the time of filing.

MEMORANDUM

Date: March 21, 2022

To: Gregory J Foster GST Exempt Trust #85938

From: Tyler Wallace

Re: Legal Notice Not Required

Legal Notice Not Required

3/21/2022

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

Transfer will only change POU of contiguous lands to match existing system.

TRANSFER SUMMARY

Date: March 21, 2022
To: Gregory J Foster GST Exempt Trust #85938
From: Tyler Wallace
Re: Summary of transfer

Application for transfer proposes to change the place of use (POU) for one irrigation right with a flow rate of 0.2 cfs, which currently irrigate 13.7 acres located approximately 4.0 miles west and 0.75 miles south from the intersection of Highway 20 and Highway 26 in Carey, ID. The proposed POU will modify the existing POU to reflect changes in the irrigation system.

The transfer is in Water District 37 so Watermaster comments will be solicited. Advertising is not necessary because the transfer will only change the POU of land contiguous to the present POU.