

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 85301

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) Mountain States Properties LLC

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 idwr.idaho.gov/water-rights/transfers/resources.html.
- ☐ ☒ #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 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: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Mountain States Properties LLC Phone 208-782-9103
Mailing address 1858 W. Bridge Road, Blackfoot, Idaho 83221-5115 Email ssayer@ptius.net

- ☐ 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 Randall C. Budge Phone 208-232-6101
Mailing address PO Box 1391, Pocatello, Idaho 83204-1391 Email randy@racineolson.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.

Randall C. Budge
Signature of Applicant or Authorized Representative

Randall C. Budge, Attorney
Print Name and Title if applicable

9/2/2021
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.O.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**.

Move POD for WR#34-14815 from current location to be along river, adjacent to POU as depicted in attached map
#7a.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 07 2021

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

Department of Water Resources
Eastern Region

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 ☒ ☐	34-14815	0.11		to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.11 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.11 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 #
X		SE	NE	SE	18	7N	24E	Custer	Big Lost River	

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	
Total Acres (for irrigation use)																			

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:

Portable pump with electric motor and approved in-line measuring device.

- 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:
N/A

- 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. 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:

N/A

- 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:

N/A

- 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:

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

9/8/2021

Water Right 34-14815

Owner Type **Name**
Current Owner MOUNTAIN STATES PROPERTIES LLC
Priority Date: 6/1/1905
Basis: Decreed
Status: Active

Source **Tributary**
SPRING BIG LOST RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	5/01	10/15	0.110 CFS	
	Total Diversion		0.110 CFS	

Source and Point(s) of Diversion
SPRING SWSESW Sec. 7, Twp 07N, Rge 24E, CUSTER County

Place Of Use
IRRIGATION within CUSTER County
T07N R24E S18 NESE 3.0
POU Total Acres: 3.0

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. RIGHTS 34-328A AND 34-328B ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
4. 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.

Dates and Other Information

Decreed Date: 12/14/2001
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Water District Number: 34
Generic Max Rate Per Acre: 0.020
Generic Max Volume Per Acre: 3.5
Mitigation Plan: False

85301

Attachment #4

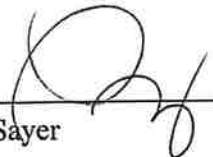
SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints the law firm of RACINE OLSON, PLLP, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204 (the "Firm"), its true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow the Firm to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on its behalf.

DATED this 18 day of August, 2020.



Douglas A. Sayer



Shelly Sayer

STATE OF IDAHO)
 : ss.
County of Bingham)

This record was acknowledged before me on this 18 day of August, 2020, by Douglas A. Sayer and Shelly Sayer.

(SEAL)





NOTARY PUBLIC FOR IDAHO
My Commission Expires: 10/25/22

SPECIAL POWER OF ATTORNEY FOR WATER RIGHTS

The undersigned hereby appoints Randall C. Budge the law firm of RACINE OLSON, PLLP, 201 E. Center Street, Post Office Box 1391, Pocatello, Idaho 83204 (the "Firm"), its true and lawful attorney for the purpose of dealing with the Idaho Department of Water Resources relative to the management and transaction of water rights, and to allow the Firm to receive all information, opinions, and records regarding water rights, and to sign and submit applications and other filings on its behalf.

DATED this 18 day of August, 2020.

Mountain States Properties, LLC

By: 
Douglas A. Sayer, Manager
1858 W. Bridge Street
Blackfoot, Idaho 83221
208-782-9103

STATE OF IDAHO)
 : ss.
County of Bingham)

This record was acknowledged before me on this 18 day of August, 2020, by Douglas A. Sayer, as Manager of Mountain States Properties, LLC.

(SEAL)




NOTARY PUBLIC FOR IDAHO
My Commission Expires: 10/25/22

34-14815 Change POD Attachment #7a





RANDALL C. BUDGE
randy@racineolson.com

September 2, 2021

RECEIVED

SEP 07 2021

Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

Department of Water Resources
Eastern Region

Re: Application for Transfer

To whom it may concern:

Enclosed please find the original and two extra copies of a Application for Transfer of water right no. 34-14815, together with a check in the amount of \$200.00 for the filing fee. Please file the original and conform stamp and return one copy to me and one copy to Mountain States Properties in the enclosed stamped and addressed return envelopes.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Randy Budge', is written over the typed name 'RANDALL C. BUDGE'.

RANDALL C. BUDGE

RCB:ts
Enclosures



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

September 15, 2021

MOUNTAIN STATES PROPERTIES LLC
1858 W BRIDGE RD
BLACKFOOT, ID 83221-5115

RE: Transfer No. 85301
Water Right No(s). 34-14815

Dear Applicant:

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the ARCO ADVERTISER and CHALLIS MESSENGER on 9/23/2021 and 9/30/2021. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman
Administrative Assistant

CC:
RANDALL C BUDGE
PO BOX 1391
POCATELLO, ID 83204-1391

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 15, 2021 11:48 AM
To: 'legalnotices@postregister.com'
Subject: Legal Notice for Challis Messenger
Attachments: 85301 Arco Advertiser, Challis Messenger.docx

LEGAL NOTICE DEPARTMENT
CHALLIS MESSENGER
PO BOX 405
CHALLIS, ID 83226-0405

RE: Transfer No. 85301
Water Right No(s). 34-14815

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/11/2021. Your cooperation is appreciated.

Sincerely,

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

Henman, Christina

From: Henman, Christina
Sent: Wednesday, September 15, 2021 11:48 AM
To: arcoadv@aol.com
Subject: Legal Notice for Arco Advertiser
Attachments: 85301 Arco Advertiser, Challis Messenger.docx

LEGAL NOTICE DEPARTMENT ARCO ADVERTISER

RE: Transfer No. 85301
Water Right No(s). 34-14815

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/11/2021. Your cooperation is appreciated.

Sincerely,

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85301**

MOUNTAIN STATES PROPERTIES LLC, 1858 W BRIDGE RD, BLACKFOOT, ID 83221-5115 has filed Application No. 85301 for changes to the following water rights within CUSTER County(s): Right No(s). 34-14815; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. The purpose of the transfer is to change a portion of the above rights as follows: change point of diversion. The proposed point of diversion is a pump in the Big Lost River located in SENESE Sec 18 T07N R24E for 0.11 cfs. The water source is a Spring tributary to the Big Lost River. For additional information concerning the property location, contact Eastern Region office at (208)525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 10/12/2021. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/23/2021 and 9/30/2021