

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

80793

AMENDED

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

APR 30 2020

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 www.idwr.idaho.gov.

Name of Applicant(s) Meadowlark Ranch 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 www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☒ #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: Special Power of Attorney

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

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

Name of Applicant(s) Meadowlark Ranch LLC Phone 801-563-4143

Mailing address 9350 South 150 East Ste 1000, Sandy, UT 84070 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 Travis L. Thompson Phone 208-733-0700

Mailing address P.O. Box 63, Twin Falls, ID 83303-0063 Email ttt@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

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 See Narrative in #2 below.

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**.

This application is submitted solely to amend one component of the original application for transfer 80793 (filed 3/29/15). Pursuant to the January 30, 2020 stipulation (with BLM and Merrill Ranch Partnership LLC), the applicant agrees to change the point of rediversion to a location in the NESW, Sec. 13, T13S, R38E, Bannock County.

STATE OF IDAHO
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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				
☐	☐			to	
☐	☐		See Supplemental Page Attached		
☐	☐			to	
☐	☐			to	
☐	☐			to	
☐	☐			to	
☐	☐			to	
☐	☐			to	
☐	☐			to	

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

2. Total amount of water proposed to be transferred or changed 4.47 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 #
			SE	SE	8	12S	39E	BANNOCK	COTTONWOOD CREEK	
			SW	NE	33	12S	39E	BANNOCK	COTTONWOOD CREEK	INJECTION
			SE	NW	33	12S	39E	BANNOCK	COTTONWOOD CREEK	REDIVERSION
			SW	SW	33	12S	39E	BANNOCK	COTTONWOOD CREEK	INJECTION
			NE	SW	13	13S	~~39E~~	BANNOCK	COTTONWOOD CREEK	REDIVERSION

38E see pg 2 and stipulation for withdrawal of protests

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	
13S	38E	13			8	25				0.2	20	6	10	0.1	33	34	2	23	161.3
		24	19																19
	39E	18							3		5	23	23	18					72
		19						22											22
Irrigation Storage Place of Use:																			
12S	39E	33												X			X		
13S	39E	4		X															
Total Acres (for irrigation use)																			274.3

Irrigated Acres Limited to 172.5 acres

STATE OF IDAHO
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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:

Water rights are diverted at Cottonwood Creek and delivered through the Treasureton Canal, injected into Stockton Creek, rediverted to the Meadowlark Reservoir. The reservoir outlet reinjects the water into Stockton Creek and delivers to the final diversion, which is not measured, for irrigation. All other PODs are measured.

- b. Who owns the property at the point(s) of diversion? All PODs are existing diversions with multiple land ownership.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: An easement was obtained for the POD in SWSW Sec 33 T12S R39E with State of Idaho Department of Lands. Other diversions have been historically used under pre-existing arrangements.

- 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: Irrigation will continue to occur on the lands described by this transfer, which are reconfigured according to more recent practices. However 9.3 acres of irrigated land will be retired as required by the Conditions for Permit No. 13-7784. The volume of water appurtenant to the 9.3 acres will be applied to mitigation of reservoir evaporation.

- 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: Other water rights share the same diversions, injections, and rediversions from Cottonwood Creek to Stockton Creek and into the Reservoir: 13-7127, 13-7784. There are no other recorded water rights shown appurtenant to the same lands described in this transfer.

- 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:

The mitigation plan for Permit No. 13-7784 requires that 9.3 acres be retired to provide mitigation of evaporative losses in the reservoir. This transfer proposes to formally add Mitigation as a use for this portion of the water rights.



Barker Rosholt
& Simpson LLP

Travis L. Thompson

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Attorneys

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(1937-2019)

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APR 30 2020

Department of Water Resources
Eastern Region

April 28, 2020

VIA EMAIL & U.S. MAIL

Mr. James Cefalo
IDWR – Eastern Regional Office
900 N. Skyline Dr., Ste. A
Idaho Falls, Idaho 83402-1718

Re: Meadowlark Ranch LLC Amended Transfer No. 80793

Dear James:

This letter follows up on our conversations earlier this spring regarding an amended transfer application to implement the *Stipulation for Withdrawal of Protests* filed by the Applicant Meadowlark Ranch LLC and the final protestants BLM and Merrill Ranch Partnership LLC. This matter has been in the works for quite some time and I apologize for the delay in getting this back to you. As you are aware the last six weeks have been interesting to say the least.

As noted in the *Stipulation*, this amended transfer changes the second point of redirection of water originally from Cottonwood Creek from Section 6 on BLM land to Section 13 on the Applicant's property (NESE, Sec. 13, T13S, R29E, Bannock County). I have enclosed a signed transfer application noting that amendment. I have not included the prior attachments (Part 2A descriptions and other attachments) as I hope those can carry over from the original transfer application. If you need me to resubmit, please advise.

I believe everything is in order for you to analyze and approve the transfer application. I appreciate your patience and help in resolving this matter without the need to go to a contested case hearing. Please contact me at (208) 733-0700 if you have any questions.

Sincerely

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Mr. James Cefalo (IDWR)
April 28, 2020
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Enc.

cc: Client
T.J. Budge
Fred Price



Barker Rosholt
& Simpson LLP