

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 83210

APR 29 2019

WATER RESOURCES
WESTERN REGIONMINIMUM 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) Toll Southwest 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 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: _____

APR 29 2019

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Toll Southwest LLC Phone 208-424-0020
 Mailing address 3103 W Sheryl Dr, Ste 100, Meridian, ID 83642 Email acapell@tollbrothers.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 SPF Water Engineering Phone 208-383-4140
 Mailing address 300 E Mallard Dr, Ste 350, Boise, ID 83706 Email sking@spfwater.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.

THUG
 Signature of Applicant or Authorized Representative

Thomas Coleman, Division 4-15-19
 Print Name and Title if applicable President Date

 Signature of Applicant or Authorized Representative

 Print Name and Title if applicable Date

A. PURPOSE OF TRANSFER

- ☒ Change point of diversion
☐ Change nature of use
 ☒ Add diversion point(s)
☐ Change period of use
 ☒ Change place of use
☒ Other Update water right ownership
- 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**.
- 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**.
 Proposed changes: (1) change the point of diversion to a new well located on applicant's property and add a 2nd existing well; and (2) allow a permissible place of use to reflect an integrated irrigation system.

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 ☒ ☐	63-33980	1.44/324	Irrigation	3/15 to 11/15	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.44 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 1.44 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 #
Yes			NE	SW	28	4N	1W	Ada	Ground Water	
No			NE	SW	28	4N	1W	Ada	Ground Water	

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	
4N	1W	28			15	7					40	32	40	40		40	40		254
Total Acres (for irrigation use)																			*254

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:

One proposed well, one existing well, pond, integrated pressurized irrigation system.

Measuring devices and lockable controlling works will be accommodated upon Department's request.

- 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. 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:

Property is subject to residential development.

- 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:

Surface water from Settlers Irrigation District, Nampa and Meridian Irrigation District.

- 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
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 63-33980

Current Owner: NEW OAKS LLC

Priority Date: 12/27/1929

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.44 CFS	324 AF
	<u>Total Diversion</u>	1.44 CFS	324 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SW1/4	Sec. 28,	Twp 04N,	Rge 01W B.M.
ADA County				

Place of Use

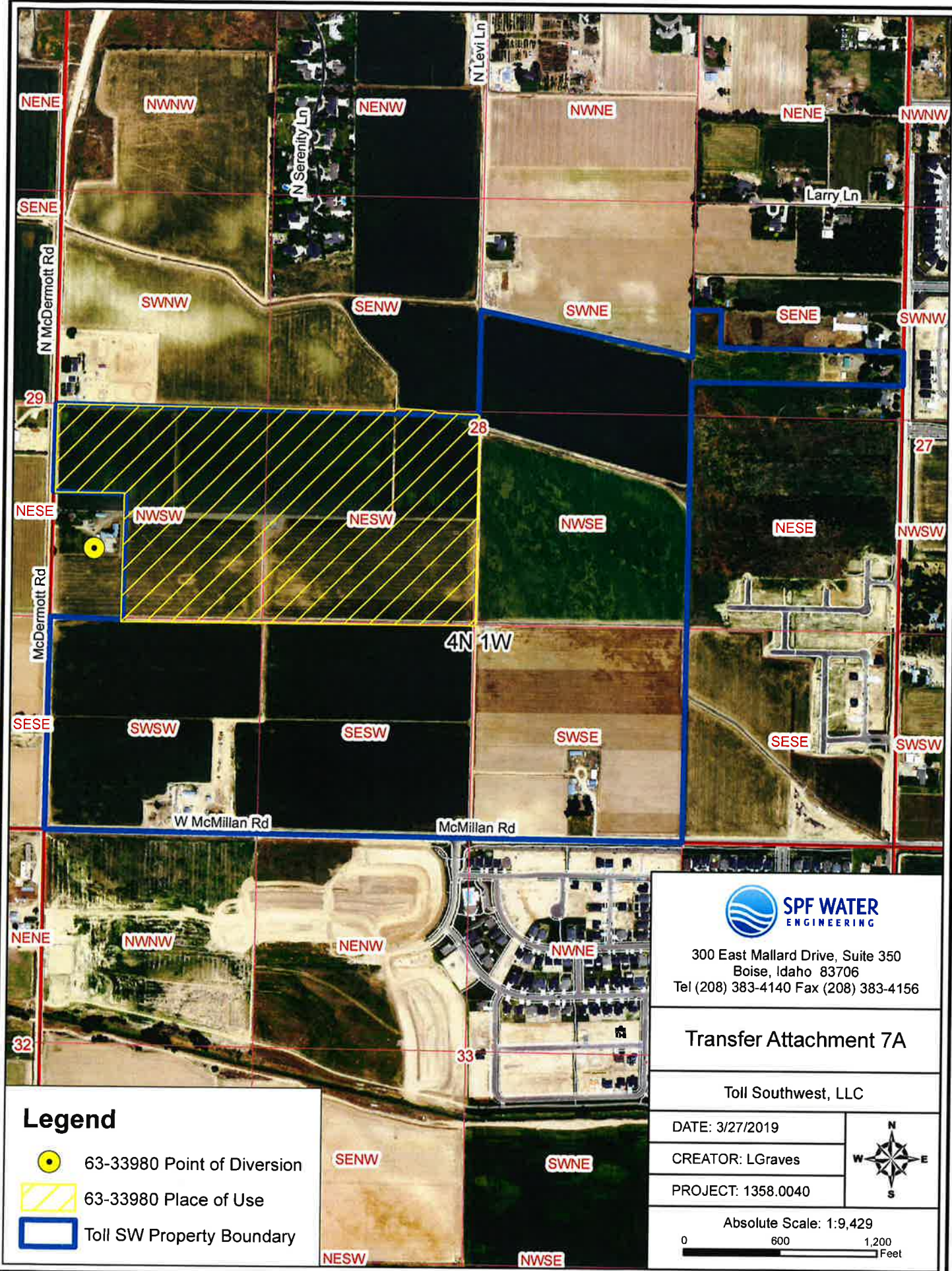
IRRIGATION Within ADA County

T04N R01W S28	NESW	40.00	T04N R01W S28	NWSW	32.00
Total Acres: 72					

Conditions of Approval:

- | | | |
|----|-----|--|
| 1. | S39 | THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT. |
| 2. | 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. |
| 3. | W51 | Use of this right is combined with water from Nampa Meridian Irrigation District. |

Decreed Date: 2/16/2007



Legend

-  63-33980 Point of Diversion
-  63-33980 Place of Use
-  Toll SW Property Boundary



300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

Transfer Attachment 7A

Toll Southwest, LLC

DATE: 3/27/2019

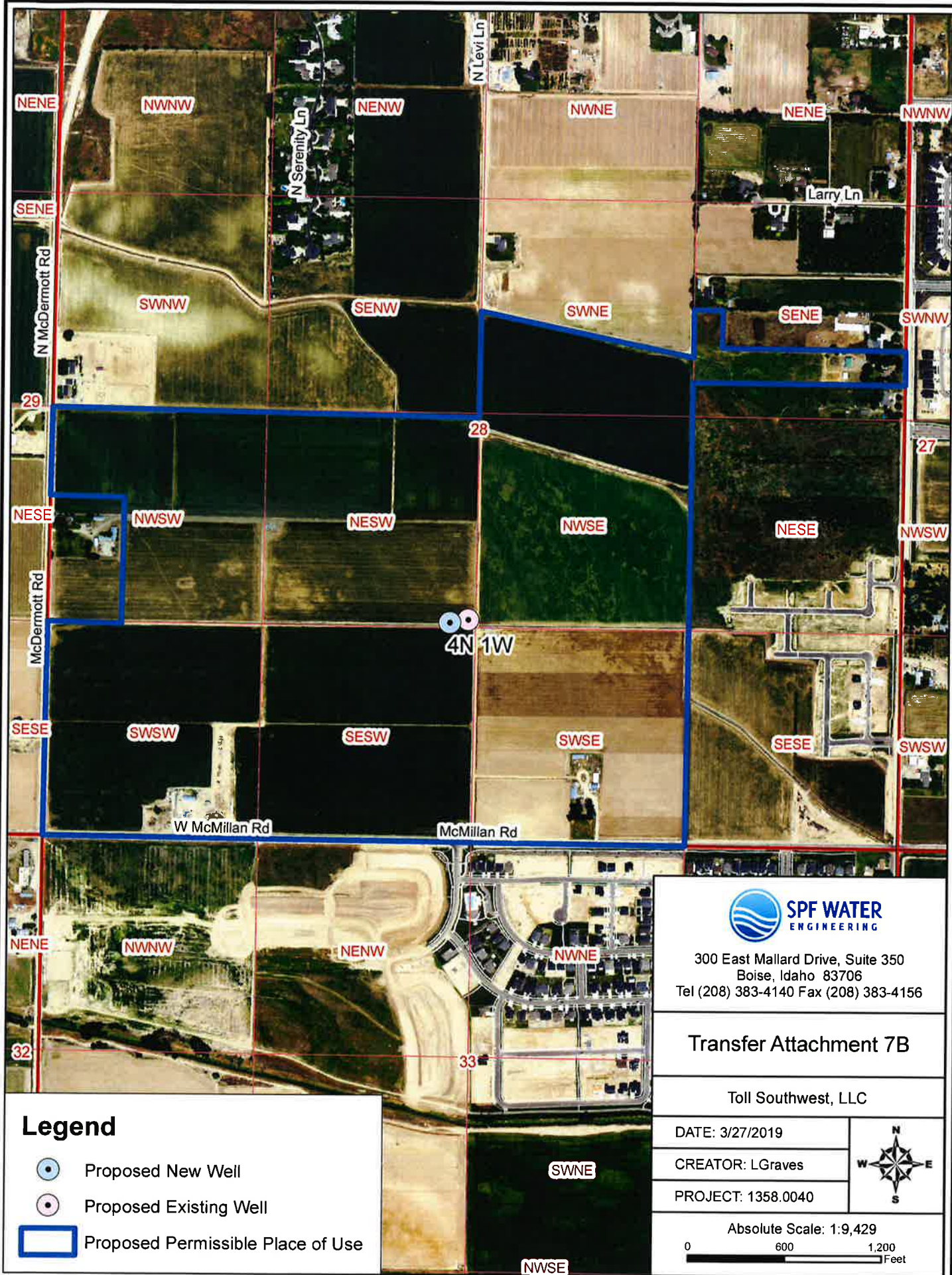
CREATOR: LGraves

PROJECT: 1358.0040



Absolute Scale: 1:9,429

0 600 1,200 Feet



Legend

-  Proposed New Well
-  Proposed Existing Well
-  Proposed Permissible Place of Use



SPF WATER
ENGINEERING

300 East Mallard Drive, Suite 350
Boise, Idaho 83706
Tel (208) 383-4140 Fax (208) 383-4156

Transfer Attachment 7B

Toll Southwest, LLC

DATE: 3/27/2019

CREATOR: LGraves

PROJECT: 1358.0040



Absolute Scale: 1:9,429

0 600 1,200 Feet

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☒ 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. Label it **Attachment #7b**.

If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the rights(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☒ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above:

This supplemental water right provides water to lands within Nampa Meridian Irrigation District and Settlers Irrigation District. The new place of use remains within the same Districts.

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Preliminary check by _____ Date _____

Fee paid 580 Date 4/29/19 Receipted by KT Receipt # W047358

Add'l fee paid _____ Date _____ Receipted by _____ Receipt # _____

Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

ADA COUNTY RECORDER Christopher D. Rich
BOISE IDAHO Pgs=10 BONNIE OBERBILLIG
PIONEER TITLE COMPANY OF ADA COUNTY

2018-117967
12/14/2018 12:07 PM
\$15.00

AFTER RECORDING MAIL TO:

GRANT DEED

Date: December 14, 2018

For Value Received, **NEW OAKS LLC, an Idaho limited liability company**, hereinafter referred to as Grantor, does hereby grant and convey unto **TOLL SOUTHWEST LLC, a Delaware limited liability company**, hereinafter referred to as Grantee, whose current address is 3103 West Sheryl Drive, Suite 100, Meridian, ID 83642, the following described premises, situated in Ada County, Idaho, to wit:

LEGAL DESCRIPTION: Real property in the County of Ada, State of Idaho, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto said Grantee, and to the Grantee's heirs and assigns forever.

SUBJECT TO: taxes, levies, and assessments for the current year and subsequent years and the matters set forth on Exhibit "B" attached hereto.

NEW OAKS LLC,
an Idaho limited liability company

By: Coleman Real Estate Management LLC,
an Idaho limited liability company
Its: Manager

By: [Signature]
Name: NOELLE GAMBILL
Its: Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF Santa Barbara) ss.

On December 11, 2018 before me, Monica M. Schlager, Notary Public, personally appeared Noelle Gambill, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Signature]

(seal)

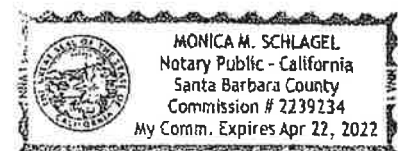
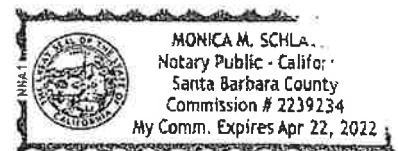


EXHIBIT A

A parcel of land located in Section 28, T.4N., R.1W., B.M., Meridian, Ada County, Idaho, more particularly described as follows:

BEGINNING at the Southwest corner of the said Section 28, from which the S1/4 corner of said section bears South 89°16'58" East, 2635.25 feet;

thence along the West boundary of said section North 01°00'42" East, 1315.47 feet to the S1/16 corner of said Section 28;

thence along the North boundary of the SW1/4 of the SW1/4 of said Section 28 South 89°18'59" East, 450.00 feet;

thence leaving said North boundary North 01°00'42" East, 774.71 feet;

thence North 89°21'17" West, 450.00 feet to a point on the West boundary of said Section 28;

thence along said West boundary North 01°00'42" East, 540.97 feet to the W1/4 corner of said Section 28;

thence along the North boundary of the SW 1/4 of said Section 28 South 89°21'17" East, 1311.11 feet to the C-W 1/16 corner of said Section 28;

thence along the East boundary of the SW1/4 of the SW1/4 of said Section 28 South 00°52'12" West, 16.99 feet;

thence leaving said East boundary South 89°14'34" East, 789.50 feet;

thence North 64°03'54" East, 27.64 feet;

thence South 86°53'48" East, 189.53 feet;

thence South 89°14'51" East, 20.04 feet;

thence South 70°27'50" East, 25.64 feet;

thence South 81°00'03" East, 36.69 feet;

thence South 88°50'13" East, 85.57 feet;

thence South 86°14'58" East, 63.62 feet;

thence North 89°18'37" East, 45.49 feet;

thence South 78°07'47" East, 19.68 feet;

thence North 53°05'44" East, 16.53 feet to a point on the East boundary of the SW1/4 of said Section 28;

thence along said East boundary North 00°43'42" East, 24.90 feet to the C1/4 corner of said Section 28;

thence along the West boundary of the NE1/4 of said Section 28 North 00°43'58" East, 625.84 feet;

thence South 77°58'14" East, 1338.14 feet to a point on the East boundary of the SW1/4 of the NE1/4 of said Section 28;

thence a long said East boundary North 00°36'34" East, 297.33 feet;

thence South 89°22'11" East, 175.08 feet;

thence South 00°29'20" West, 230.00 feet;

thence South 89°22'02" East, 1136.34 feet to a point on the East boundary of said Section 28, said point also being on the existing Meridian City Limits boundary;

thence along said East boundary and said City Limits boundary South 00°29'20" West, 214.64 feet;

thence leaving said East boundary line North 89°21'07" West, 1312.36 feet to a point of the West boundary of the SE1/4 of the NE1/4 of said Section 28;

thence a long said West boundary South 00°36'34" West, 214.87 feet to the C-E 1/16 corner of said Section 28;

thence along the East boundary of the W1/2 of the SE1/4 of said Section 28 South 00°37'35" West, 2635.76 feet to a point on the South boundary of the SE1/4 of said Section 24;

thence along said South boundary North 89°16'45" West, 1317.68 feet to the S1/4 corner of said Section 28;

thence along the South boundary of the SW 1/4 of said Section 28 North 89°16'58" West, 2635.25 feet to the POINT OF BEGINNING.

EXCEPTING therefrom that portion lying within the following described parcel:

A parcel located in the SW1/4 and the W1/2 of the SE1/4 of Section 28, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, and more particularly described as follows:

Commencing at a brass cap monument marking the southwest corner of said SW1/4 of Section 28, from which a brass cap monument marking the southeast corner of said SW1/4 bears S89°16'58"E a distance of 2635.25 feet;

Thence S89°16'58"E along the southerly boundary of said SW1/4 a distance of 856.37 feet to the POINT OF BEGINNING;

Thence leaving said southerly boundary N0°43'02"E a distance of 37.00 feet to a point;

Thence N45°42'28"E a distance of 52.53 feet to a point;

Thence N0°42'28"E a distance of 383.06 feet to a point;

Thence N44°12'21"W a distance of 28.24 feet to a point;

Thence N0°34'09"E a distance of 50.00 feet to a point;

Thence N5°24'27"W a distance of 137.10 feet to a point;

Thence N0°52'51"E a distance of 143.72 feet to a point;

Thence N86°25'38"E a distance of 42.70 feet to a point;
Thence N67°48'07"E a distance of 60.98 feet to a point;
Thence N18°04'56"W a distance of 100.26 feet to a point;
Thence N22°11'53"W a distance of 50.00 feet to a point;
Thence N6°25'06" W a distance of 85.90 feet to a point;
Thence N0°52'51"E a distance of 103.70 feet to a point;
Thence N1°00'42"E a distance of 49.37 feet to a point;
Thence S88°59'18"E a distance of 5.23 feet to a point;
Thence N46°00'42"E a distance of 7.07 feet to a point;
Thence N1°00'42"E a distance of 130.00 feet to a point;
Thence N88°59'18"W a distance of 75.00 feet to a point;
Thence N1°00'42"E a distance of 125.02 feet to a point;
Thence N1°00'01"E a distance of 50.00 feet to a point;
Thence N1°00'42"E a distance of 131.27 feet to a point;
Thence S80°25'38"E a distance 75.85 feet to a point;
Thence S89°42'52"E a distance of 75.01 feet to a point;
Thence N88°27'49"E a distance of 75.07 feet to a point;
Thence N67°41'09"E a distance of 67.88 feet to a point;
Thence N64°43'16"E a distance of 50.00 feet to a point;
Thence S25°16'44"E a distance of 55.37 feet to a point;
Thence N69°33'38"E a distance of 132.92 feet to a point;
Thence S30°14'17"E a distance of 107.59 feet to a point;
Thence S21°54'36"E a distance of 195.75 feet to a point;
Thence S1°00'42"W a distance of 75.00 feet to a point;
Thence S88°59'18"E a distance of 154.37 feet to a point;
Thence a distance of 40.94 feet along the arc of a 55.00 foot radius non-tangent curve left, said curve having a central angle of 42°38'51" and a long chord bearing S88°59'18"E a distance of 40.00 feet to a point;

Thence S88°59'18"E a distance of 136.71 feet to a point;
 Thence N1°00'42"E a distance of 149.95 feet to a point;
 Thence N17°35'33"E a distance of 75.05 feet to a point;
 Thence N21°27'47"E a distance of 75.42 feet to a point;
 Thence N24°38'44"E a distance of 65.00 feet to a point;
 Thence N39°30'44"E a distance of 65.00 feet to a point;
 Thence N53°30'14"E a distance of 66.87 feet to a point;
 Thence N61°02'56"E a distance of 166.67 feet to a point;
 Thence N54°03'09"E a distance of 95.88 feet to a point;
 Thence S41°55'50"E a distance of 123.35 feet to a point;
 Thence N56°00'22"E a distance of 11.24 feet to a point;
 Thence S33°59'38"E a distance of 50.00 feet to a point;
 Thence S38°50'20"E a distance of 121.28 feet to a point;
 Thence S81°24'59"E a distance of 13.53 feet to a point;
 Thence N56°00'22"E a distance of 331.12 feet to a point;
 Thence N52°10'28"E a distance of 136.18 feet to a point;
 Thence N9°05'40"E a distance of 166.97 feet to a point;
 Thence N75°18'34"E a distance of 227.86 feet to a point;
 Thence N63°08'06"E a distance of 110.19 feet to a point;
 Thence N71°17'14"E a distance of 70.04 feet to a point;
 Thence N75°33'47"E a distance of 610.00 feet to a point;
 Thence N41°21'08"E a distance of 24.18 feet to a point;
 Thence N75°33'47"E a distance of 50.00 feet to a point;
 Thence S89°29'26"E a distance of 131.09 feet to a point on the easterly boundary of the W1/2 of the SE1/4 of Section 28;
 Thence S0°37'35"W along said easterly boundary a distance of 1154.33 feet to a point;
 Thence leaving said easterly boundary N89°22'25"W a distance of 1341.24 feet to a point;

Thence S0°43'02"W a distance of 1019.17 feet to a point;

Thence S7°43'25"E a distance of 124.64 feet to a point;

Thence S44°16'52"E a distance of 138.09 feet to a point;

Thence S0°43'15"W a distance of 74.00 feet to a point on the southerly boundary of said W1/2 of the SE1/4;

Thence N89°16'45"W along said southerly boundary a distance of 90.29 feet to a brass cap monument marking the southeast corner of the SW1/4 of said Section 28;

Thence N89°16'58"W along the southerly boundary of said SW1/4 a distance of 1778.88 feet to the POINT OF BEGINNING.

EXHIBIT B

1. Rights of way as disclosed by available maps. For: East Tap Lateral
2. Rights of way as disclosed by available maps. For: N. Black Cat Road
3. Rights of way as disclosed by available maps. For: McDermott Road
4. Rights of way as disclosed by available maps. For: Middle Tap Sublateral
5. Rights of way as disclosed by available maps. For: McMillan Road
6. Rights of way as disclosed by available maps. For: Creason Lateral
7. An easement containing certain terms, conditions and provisions affecting a portion of said premises and for the purposes stated herein
In Favor of: Idaho Power Company
Recorded: August 23, 1967
Instrument No.: 672021
8. Terms, conditions, and provisions of Right-of-Way Certificate Agreement
Between: Creason Lateral Association and Land Owners Dated: October 30, 1967
Recorded: November 2, 1967
Instrument No.: 677040
9. Matters disclosed by Record of Survey
Survey No.: 2712
Recorded: January 3, 1994
Instrument No.: 94000017
As Follows:
McDermott Right of Way
10. Matters disclosed by Record of Survey
Survey No.: 5362
Recorded: April 25, 2001
Instrument No.: 101038517
As Follows:
McMillan Road Right of Way McDermott Road Right of Way
11. Master Pathway Agreements upon the terms, provisions and consequences arising therefrom.
Between: Nampa Meridian Irrigation District, the City of Meridian, the City of Boise and the County of Ada County
Instrument Nos.: 100102999, 101002090, 101002091, 101009649, 101013585

12. Matters disclosed by Record of Survey

Survey No.: 6715

Recorded: December 8, 2004

Instrument No.: 104155006

As Follows:

25' Prescriptive easement for McMillan Road

13. Matters disclosed by Record of Survey

Survey No.: 6717

Recorded: December 8, 2004

Instrument No.: 104155008

As Follows:

McDermott Road Right of Way

25' Prescriptive Easement for McMillan Road

14. Matters disclosed by Record of Survey

Survey No.: 6918

Recorded: May 26, 2005

Instrument No.: 105066988

As Follows:

N. Black Cat Road Right of Way

15. Ordinance No. 09-1393 by City of Meridian upon the terms and provisions set forth therein.

Dated: January 6, 2009

Recorded: January 9, 2009

Instrument No.: 109002090

16. Terms, conditions, and provisions of Development Agreement

Between: City of Meridian and Coleman Homes, LLC Dated: April 22, 2014

Recorded: April 25, 2014

Instrument No.: 114030972

Assignment of Grantor's Rights and Coordinated Development Agreement for the Oaks

By and Between: Oakcreek LLC, an Idaho limited liability company and Toll ID I LLC, an Idaho limited liability company

Recorded: November 4, 2016

Instrument No.: 2016-107409

17. Ordinance No. 14-1602 by City of Meridian upon the terms and provisions set forth therein.

Recorded: April 25, 2014

Instrument No.: 114030973

18. Terms, conditions, and provisions of Oaks Lift Station and Pressure Sewer Reimbursement Agreement for Infrastructure Enhancement

Between: New Oaks LLC, an Idaho limited liability company and City of Meridian Dated:
February 9, 2016

Recorded: February 11, 2016

Instrument No.: 2016-011639

19. Terms, conditions, and provisions of Road Easement Agreement
Between: Toll Southwest LLC, a Delaware limited liability company and New Oaks LLC, an Idaho
limited liability company
Dated: October 29, 2018
Recorded: October 29, 2018
Instrument No.: 2018-103078

Kaiser, Anna

From: Kaiser, Anna
Sent: Tuesday, September 3, 2019 1:51 PM
To: 'waterdistrict63@qwestoffice.net'
Subject: Application for Transfer No. 83210
Attachments: Watermaster Recommendation Form.docx; 83210.pdf

September 3, 2019

REX BARRIE
WATER DISTRICT #63
PO BOX 767
10769 W STATE ST
STAR ID 83669-0767

RE: Application for Transfer No. 83210

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the application are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office by **September 23, 2019**.

IDWR will assume you do not object to these applications if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Anna Kaiser | Administrative Assistant I
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

August 28, 2019

TOLL SOUTHWEST LLC
3103 W SHERYL DR STE 100
MERIDIAN, ID 83642-5674

**Application for Permit No. 63-34721
Transfer No. 83210**

Dear Applicant:

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

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATESMAN on 9/5/2019 and 9/12/2019. 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 permit.

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

Sincerely,

Anna Kaiser
Administrative Assistant

CC:
SPF WATER ENGINEERING LLC
C/O SCOTT KING
300 E MALLARD DR STE 350
BOISE, ID 83706

Kaiser, Anna

From: Kaiser, Anna
Sent: Wednesday, August 28, 2019 2:39 PM
To: 'BOI Legals'
Subject: Ada Legal Ad
Attachments: Cover Letter.docx; Legal Notice.docx

Good Afternoon Legal Clerk,

Please see the attached ad for publication on 9/5/2019 & 9/12/2019.

Please confirm these are okay to publish as shown.

Thank You,

Anna Kaiser | Administrative Assistant I
IDWR-Western Region
2735 W Airport Way, Boise ID 83705
(208).334.2190 | anna.kaiser@idwr.idaho.gov

August 28, 2019

LEGAL NOTICE DEPARTMENT

IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Application For Permit No.(s): 63-34619, 63-34721
RE: Transfer No. 83249, 83210

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 9/23/2019. Your cooperation is appreciated.

Sincerely,

Anna Kaiser
Administrative Assistant

Enclosures

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-34619

DALE L FORBES
BEVERLY FORBES
5616 W HOLLYLYNN DR
BOISE, ID 83709
Point of Diversion NWSW S8 T02N R02E ADA County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.1 CFS
Total Diversion: 0.14 CFS
Date Filed: 9/19/2018
Place Of Use: IRRIGATION, DOMESTIC
T02N R02E S8 NWSW
Total Acres: 5
Water bearing zone to be appropriated is from 237 to 270 feet.

63-34721

TOLL SOUTHWEST LLC
3103 W SHERYL DR STE 100
MERIDIAN, ID 83642-5674
(2) Points of Diversion NESW S28 T04N R01W ADA County Source GROUND WATER
Use: AESTHETIC STORAGE 01/01 to 12/31 10 AF
Use: DIVERSION TO STORAGE 01/01 to 12/31 1.6 CFS
Use: IRRIGATION 03/01 to 11/15 1.6 CFS
Use: IRRIGATION STORAGE 01/01 to 12/31 10 AF
Total Diversion: 1.6 CFS 10 AF
Date Filed: 4/29/2019
Place Of Use: IRRIGATION
T04N R01W S28 SWNE SENE NESW NWSW SWSW SESW NWSE SWSE
Place Of Use: AESTHETIC STORAGE
T04N R01W S28 NESW
Total Acres: 80
Water bearing zone to be appropriated is from 200 to 400 ft. below ground surface.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83249**

HILLSDALE ESTATES HOMEOWNERS ASSN INC, C/O RIVERSIDE MANAGEMENT 8919 W ARDENE ST, BOISE, ID 83709; has filed Application No. 83249 for changes to the following water rights within ADA, CANYON County(s): Right No(s). 63-12125, 63-31862; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: The purpose of the transfer is to add two new wells to supply domestic water. Changes to the place of use will be made to both rights to describe the entire, connected water system. The transfer does not propose it increase beneficial use or add service to new homes. Water will be used at the current place of use approximately 1.5 miles south of Firebird Raceway, west of State Hwy 16.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83210**

TOLL SOUTHWEST LLC, 3103 W SHERYL DR STE 100, MERIDIAN, ID 83642-5674; has filed Application No. 83210 for changes to the following water rights within ADA County(s): Right No(s). 63-33980; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: The purpose of the transfer is to change the point of diversion, add a diversion point, change the place of use, and update the water right ownership for water right 63-33980. The new point of diversion will be located adjacent to the current point of diversion in the NESW quarter of section 28 Twp 04N Rge 01W. While the amount of water used will not increase, water will be used at the current place of use and an additional 182 acres northeast of Meridian.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at 208-334-2190; or for a full description of the right(s) or proposed transfer (s) please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code §§ 42-203A and 42-222. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 9/23/2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/5/2019 and 9/12/2019

MEMORANDUM

TO: Transfer No. 83210

FROM: Tyler Smith

DATE: 8/21/2019

RE: Evaluation of Application

The transfer proposes to change a point of diversion, add a point of diversion, change the place of use, and update the water right ownership.

The site is a 254 acre place of use located in Ada County and within the basin 63 groundwater restricted area.

Summary of Information Submitted

Toll Southwest LLC (Company) is a property developer that plans to build out a residential subdivision in north Eagle, ID. The company filed transfer no. 83210 to change the point of diversion, add a new diversion point, change the place of use, and update the ownership of the water right. The new point of diversion will be a new well located within the proposed place of use, which is owned by the applicant. The residential development will irrigate open space and residential lots using a mix of surface water delivered by Settlers Irrigation District and Nampa & Meridian Irrigation District and ground water via the new well.

Scott King of SPF Water Engineering is the representative for the transfer. Mr. King can be reached at 208-383-4140 or sking@spfwater.com.

Authority to File:

The application was filed in the name of Toll Southwest LLC. A grant deed submitted with the transfer application shows the current property owner as Toll Southwest LLC. An owner's certificate shows that Thomas Coleman is the Division President and has authority to sign on the applicants behalf.

Water Right Validity:

The partial decree for water right no. 63-33980 was issued on 2/16/2007. The right is presumed to be valid since beneficial use has occurred within the last five years. Beneficial use confirmed by the department using aerial imagery, landsat images, and ArcMap showing the 72 acres have been irrigated within the place of use in the last 5 years and is conditioned to be supplemental.

Overlap Analysis:

Due to the POD changing to a new well, there is no overlap at the proposed POD.

The proposed POU has overlap with surface water and ground water irrigation rights for Settlers Irrigation District and Nampa & Meridian Irrigation District. The applicant has the correct amount of shares to cover their irrigation rights with the aforementioned districts. The ground water permitted for use in this right will be conditioned as supplemental and therefore will not be affected by this overlap in POU.

Injury to Other Water Rights:

This transfer proposes a place of use of 254 acres, while the water right only authorizes 72 acres of irrigation. An acre limit of 72 acres along with the new source of ground water being supplemental to surface water rights, will insure there is no injury to other water rights.

A new well POD is located within the Basin 63 Ground Water Restricted Area. The well will have a water bearing zone of 200 to 400 ft. below surface to ensure appropriation from the appropriate aquifer zones. An opportunity to claim injury will be presented to water users through public advertisement.

Enlargement of Use:

The right being transferred will remain limited to a maximum diversion of 1.44 cfs and 234 af. Furthermore, the acre limit of 72 acres for the proposed 254 acre place of use will ensure there is no enlargement of use.

Local Public Interest:

No information gathered has indicated that this transfer conflicts with public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Discussion

Assuming other information not yet discovered does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Smith, Tyler

From: Scott King <SKing@spfwater.com>
Sent: Wednesday, August 14, 2019 4:06 PM
To: Smith, Tyler; acapell@tollbrothers.com
Subject: RE: Application for permit 63-34721 & Transfer Application 83210
Attachments: NMID & Settlers Entitlements.pdf

Tyler,

Thank you for the telephone call to discuss these items. We are pleased to see this application moving along and are looking forward to advertising. Following is a written reply to confirm our discussion.

1. We don't believe that the existing water right being transferred requires a change in the nature of use. The new application for permit covers groundwater storage in the pond. The existing right 63-33980, when used, will "skim over the top" and not fulfill a storage component. Changing the nature of use on the existing right would be redundant with the application for permit. This approach is consistent with our prior experience. I understand you'll check into this and let us know.
2. Attached describes the Irrigation District entitlements. The first page was provided by Vickie Keen at Settlers Irrigation District showing acres and Miners Inches for accounts 1, 59, 124, 490, 491 and 794. The following two pages are NMID's assessment for accounts 1156 and 1157.
3. The pond will be membrane-lined.
4. The application map correctly identifies the pond in Section 28 NESW. The application is incorrect in SWNE and should be changed to NESW.
5. In the time since submitting the application, testing of the existing well proved that it will be insufficient and the well will be abandoned. The new well will be constructed with water bearing zones deeper than 200 feet below ground surface with an anticipated production zone from 200 to 400 ft bgs.

Please let me know if you have further questions.

Thank you,
Scott King
SPF Water Engineering
208-383-4140

From: Smith, Tyler <Tyler.Smith@idwr.idaho.gov>
Sent: Wednesday, August 14, 2019 2:57 PM
To: acapell@tollbrothers.com
Cc: Scott King <SKing@spfwater.com>
Subject: Application for permit 63-34721 & Transfer Application 83210

Thomas,

The Idaho Department of Water Resources (IDWR) is seeking additional information from you regarding your application for permit 63-34721 and your transfer application for water right number 63-33980.

In regards to the transfer application, clarification is needed as to why the storage pond mentioned in your application for permit is noted in your transfer application for a diversion system, but it does not mention a change in nature of use. This new use would be irrigation from storage, which is not covered in right 63-33980 or included on the transfer

application. Ultimately, this would result in a change in the nature of use of water right 63-33980, which would need to include the \$250 fee associated with such a change. Additionally, IDWR is seeking documentation showing that the applicant holds enough shares from Settlers Irrigation District and Nampa and Meridian Irrigation Districts to cover the 152 acres of irrigation the groundwater diversions are going to supplement.

In regards to the new application for permit, it is anticipated but needs to be confirmed that the proposed irrigation and aesthetic storage pond will have a liner. This is to ensure that the storage does not intercept shallow groundwater. Additionally, the POU table indicates the irrigation and aesthetic storage as being located in the SWNE $\frac{1}{4}$ but the map shows it in the NESW $\frac{1}{4}$. Please indicate which description is correct. Lastly, although it is included in the narrative that the proposed well's water bearing zone will be 200 to 400 ft below surface level, the applicant needs to state that both the existing well and the proposed well will not intercept shallow groundwater due to the points of diversion being within the basin 63 groundwater restricted zone.

This additional information will allow the Department to move forward in processing your application for permit and transfer application. If you have any questions or concerns feel free to contact me at this email or at 208-334-2190.

Best,

Tyler Smith

Idaho Dept. of Water Resources

Water Resource Agent

208.334.2190

tyler.smith@idwr.idaho.gov