

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 78947

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

RECEIVED

NOV 07 2013

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) Middleton Irrigation Association

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes ☒ N/A ☐ * Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☒ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the 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.
- ☒ ☐ #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 Other. Please describe: Property surface water assessment.

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WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of Applicant(s) Middleton Irrigation Association Phone 208-585-3207

Mailing address PO Box 848, Middleton, ID 83644 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 Engineering consultant: Scott King, SPF Water Engr, 383-4140

Name of Representative S. Bryce Farris, Sawtooth Law Offices, PLLC Phone (208) 629-7447

Mailing address 1101 W. River St., Ste. 110, Boise, ID 83707 Email bryce@sawtoothlaw.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.

Gary Chu
Signature of Applicant or Authorized Representative

EARLY OLSON CHAIRMAN
Print Name and Title if applicable

X 10-4-13
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use
☒ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2.**

Applicant proposes changing the nature of use of a portion of the identified water right to provide mitigation for evaporative losses from excavated ponds in a residential subdivision development.

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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 ☐ ☒	63-198AC	109.59 cfs	Irrigation	3/1 to 11/15	Boise River / Snake River
☐ ☐		56 ac-ft	Aesthetic Storage	1/1 to 12/31	
☐ ☐		0.33 cfs	Diversion to Storage	3/1 to 11/15	
☐ ☐		30.7 ac-ft	Ground Water Recharg	3/1 to 11/15	
☐ ☐		0.17 cfs	Ground Water Recharg	3/1 to 11/15	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 110.09 cfs and/or 86.7 acre-feet.

2. Total amount of water proposed to be transferred or changed 0.17 cubic feet per second and/or 30.7 acre-feet per annum.

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed - the following chart is therefore not completed. (Proceed to #4.)
☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA.
 Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1W	11					X	X											

X = Ground Water Recharge place of use added to right.
 No change to company place of use boundary.

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:
Existing diversion dam in the Boise River with canal and laterals to the place of use. Diversion to ground water recharge will occur in pond #7 at 4N 1W Section 11 N1/2 NW 1/4 developed under associated application for permit.

- b. Who owns the property at the point(s) of diversion? n/a - no change in point of diversion
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien:

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
The place of use for two ponds and other hardscaped areas will no longer be irrigated. The irrigated place of use for water right 63-198AC will be reduced by 8.7 acres at 4N 1W Section 11 NW1/4. The Middleton Irrigation Association's place of use boundary remains unchanged.
- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
Associated application for permit for aesthetic storage from ground water in ponds.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe:

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

Current Water Right No.: 63-198ac

Current Owner: MIDDLETON IRRIGATION ASSN
Priority Date: 6/1/1877
Origin: Water Right
Status: Active
Basis: Decreed

Source

BOISE RIVER

Tributary

SNAKE RIVER

<u>Beneficial Use</u>	<u>From To</u>
DIVERSION TO STORAGE	03/01 to 11/15
AESTHETIC STORAGE	01/01 to 12/31
IRRIGATION	03/01 to 11/15
	<u>Total Diversion</u>

<u>Diversion Rate</u>	<u>Annual Volume</u>
0.33 CFS	
	56 AF
109.76 CFS	
110.09 CFS	

Location of Point(s) of Diversion

BOISE RIVER
ADA County

L1(NE1/4NE1/4) Sec. 13, Twp 04N, Rge 01W B.M.

Place of Use

AESTHETIC STORAGE Within ADA County

T04N R01W S6	SWNE	T04N R01W S11	SWNE
T04N R01W S11	NESW	T04N R01W S11	NESE
T04N R01W S11	NWSE	T04N R01W S18	SWNE
T04N R01W S18	SENE	T04N R02W S3	NESE
T04N R02W S3	NWSE	T04N R02W S3	SWSE
T04N R02W S3	SESE		

IRRIGATION Within ADA County

T04N R01W S2	SWSW	T04N R01W S2	SWSW
T04N R01W S3	SWSW	T04N R01W S3	SWSW
T04N R01W S3	SESW	T04N R01W S3	SESW
T04N R01W S3	SWSE	T04N R01W S3	SWSE
T04N R01W S3	SESE	T04N R01W S3	SESE
T04N R01W S4	NWSW	T04N R01W S4	NWSW
T04N R01W S4	SWSW	T04N R01W S4	SWSW
T04N R01W S4	SESW	T04N R01W S4	SESW
T04N R01W S4	SWSE	T04N R01W S4	SWSE
T04N R01W S4	SESE	T04N R01W S4	SESE
T04N R01W S5	SWNW	T04N R01W S5	SWNW

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T04N R01W S5		NESW
T04N R01W S5		NWSW
T04N R01W S5		SWSW
T04N R01W S5		SESW
T04N R01W S5		NESE
T04N R01W S5		NWSE
T04N R01W S5		SWSE
T04N R01W S5		SESE
T04N R01W S6	Lot 1	NENE
T04N R01W S6	Lot 2	NWNE
T04N R01W S6		SWNE
T04N R01W S6		SENE
T04N R01W S6	Lot 3	NENW
T04N R01W S6	Lot 4	NWNW
T04N R01W S6	Lot 5	SWNW
T04N R01W S6		SENW
T04N R01W S6		NESW
T04N R01W S6	Lot 6	NWSW
T04N R01W S6	Lot 7	SWSW
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T04N R01W S6		NESE
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T04N R01W S7		SENW
T04N R01W S7		NESW
T04N R01W S7	Lot 3	NWSW
T04N R01W S7	Lot 4	SWSW
T04N R01W S7		SESW
T04N R01W S7		NESE
T04N R01W S7		NWSE
T04N R01W S7		SWSE
T04N R01W S7		SESE
T04N R01W S8		NENE
T04N R01W S8		NWNE
T04N R01W S8		SWNE
T04N R01W S8		SENE
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T04N R01W S8		SWNW
T04N R01W S8		SENW

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T04N R01W S5		NWSW
T04N R01W S5		SWSW
T04N R01W S5		SESW
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T04N R01W S5		NWSE
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T04N R01W S6		SENE
T04N R01W S6	Lot 3	NENW
T04N R01W S6	Lot 4	NWNW
T04N R01W S6	Lot 5	SWNW
T04N R01W S6		SENW
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T04N R01W S6	Lot 6	NWSW
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T04N R01W S18		SENE
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T04N R02W S1		NESE
T04N R02W S1		NWSE
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T04N R02W S2		SENE
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T04N R01W S11		NWSW
T04N R01W S11		SWSW
T04N R01W S11		SESW
T04N R01W S11		NESE
T04N R01W S11		NWSE
T04N R01W S11		SWSE
T04N R01W S11		SESE
T04N R01W S12		NWSW
T04N R01W S12		SWSW
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T04N R01W S18		SENE
T04N R01W S18		NENW
T04N R01W S18	Lot 1	NWNW
T04N R01W S18	Lot 2	SWNW
T04N R01W S18		SENW
T04N R02W S1	Lot 1	NENE
T04N R02W S1	Lot 2	NWNE
T04N R02W S1		SWNE
T04N R02W S1		SENE
T04N R02W S1		SWNW
T04N R02W S1		SENW
T04N R02W S1		NESW
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T04N R02W S1		SWSW
T04N R02W S1		SESW
T04N R02W S1		NESE
T04N R02W S1		NWSE
T04N R02W S1		SWSE
T04N R02W S1		SESE
T04N R02W S2		SWNE
T04N R02W S2		SENE
T04N R02W S2	Lot 4	NWNW

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T04N R02W S2		SWNW
T04N R02W S2		SENW
T04N R02W S2		NESW
T04N R02W S2		NWSW
T04N R02W S2		SWSW
T04N R02W S2		SESW
T04N R02W S2		NESE
T04N R02W S2		NWSE
T04N R02W S2		SWSE
T04N R02W S2		SESE
T04N R02W S3	Lot 1	NENE
T04N R02W S3	Lot 2	NWNE
T04N R02W S3		SWNE
T04N R02W S3		SENE
T04N R02W S3	Lot 3	NENW
T04N R02W S3	Lot 4	NWNW
T04N R02W S3		SWNW
T04N R02W S3		SENW
T04N R02W S3		NESW
T04N R02W S3		NWSW
T04N R02W S3		SWSW
T04N R02W S3		SESW
T04N R02W S3		NESE
T04N R02W S3		NWSE
T04N R02W S3		SWSE
T04N R02W S3		SESE
T04N R02W S4	Lot 1	NENE
T04N R02W S4	Lot 2	NWNE
T04N R02W S4		SWNE
T04N R02W S4		SENE
T04N R02W S4	Lot 3	NENW
T04N R02W S4	Lot 4	NWNW
T04N R02W S4		SWNW
T04N R02W S4		SENW
T04N R02W S4		NESW
T04N R02W S4		NWSW
T04N R02W S4		SWSW
T04N R02W S4		SESW
T04N R02W S4		NESE
T04N R02W S4		NWSE
T04N R02W S4		SWSE
T04N R02W S4		SESE
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T04N R02W S5	Lot 2	NWNE
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T04N R02W S5		SENE
T04N R02W S5	Lot 3	NENW
T04N R02W S5	Lot 4	NWNW

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T04N R02W S2		NWSE
T04N R02W S2		SWSE
T04N R02W S2		SESE
T04N R02W S3	Lot 1	NENE
T04N R02W S3	Lot 2	NWNE
T04N R02W S3		SWNE
T04N R02W S3		SENE
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T04N R02W S3		NWSE
T04N R02W S3		SWSE
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T04N R02W S4		SWNE
T04N R02W S4		SENE
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T04N R02W S4		SENW
T04N R02W S4		NESW
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T04N R02W S5		SENE
T04N R02W S5	Lot 3	NENW
T04N R02W S5	Lot 4	NWNW

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T04N R02W S9		NWNE
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T04N R02W S10		NENW
T04N R02W S10		NWNW
T04N R02W S10		SWNW
T04N R02W S10		SENW

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T04N R02W S10	NESE
T04N R02W S10	NWSE
T04N R02W S11	NENE
T04N R02W S11	NWNE
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T04N R03W S2	SENE

Lot 2

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T04N R03W S2	SWNW
T04N R03W S2	SENE

Lot 2

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T04N R03W S2	NESW	T04N R03W S2	NESW
T04N R03W S2	NWSW	T04N R03W S2	NWSW
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T04N R03W S2	NWSE	T04N R03W S2	NWSE
T04N R03W S2	SWSE	T04N R03W S2	SWSE
T04N R03W S2	SESE	T04N R03W S2	SESE
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T04N R03W S3	SESE	T04N R03W S3	SESE
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T05N R02W S34	SWSW	T05N R02W S34	SWSW
T05N R02W S34	SESW	T05N R02W S34	SESW

Total Acres: 9381.5

Place of Use: DIVERSION TO STORAGE same as AESTHETIC STORAGE

Conditions of Approval:

1. 135 The boundary encompassing the irrigation place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
2. Transfer 76211 also authorizes the diversion of 0.07 cfs and an annual diversion volume of 12.3 af (as originally sought by Transfer 73829) to be used for replacement of losses caused by evaporation from 3.5 acres total surface area of sixteen (16) aesthetic ponds authorized for aesthetic storage under right 63-32600.
3. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
4. R05 Use of water under this right will 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. 63.
5. 155 This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.
6. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. T08 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. T19 Pursuant to Section 42-1412(6), Idaho Code, 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
9. S45 Diversion for irrigation under this water right prior to April 1 and after October 31 shall occur only as authorized by the Water District 63 Water Master and only when water is being released for flood control by the United States from the Lucky Peak Dam outlet under procedures and requirements for the Memorandum of Agreement between the U.S. Department of the Army and the U.S. Department of the Interior for Flood Control Operations of the Boise River Reservoirs, dated November 20, 1953, the Water Control Manual for Boise River Reservoir dated April 1985 and any future amendments or revisions made thereto pursuant to state or federal procedures or law; provided that any such use of this water right prior to April 1 and after October 31 shall be subordinated to water rights for storage in Lucky Peak Reservoir, Lake Lowell, Arrowrock Reservoir, and/or Anderson Ranch Reservoir, as decreed in SRBA Case No. 39576.
10. F06 The following rights are diverted through the point of diversion described above: 63-124N, 63-125G, 63-126E, 63-161X, 63-168B, 63-168D, 63-173, 63-198AC, 63-254, 63-255, and 63-370.
11. R43 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.

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12. Total acres authorized for irrigation under Rights 63-124N, 63-125G, 63-126E, 63-161X, 63-168B, 63-168D, 63-173, 63-198AC, 63-254, 63-255 and 63-370 are reduced by 22.5 acres per approval of Transfer 76211 (originally filed as Transfers 73827 and 73829) to a total of 9381.5 acres.
13. F01 Water is delivered through the Middleton Irrigation Assn. and the Middleton Mill Co. ditch system.
14. Transfer 73827 seeks approval for the diversion of water for Aesthetic Storage in the amount of 66.5 af to be used for replacement of losses caused by evaporation from 19.0 acres total surface area of six (6) aesthetic ponds authorized for aesthetic storage under right 63-32171. This right as herein approved as Transfer 76211 authorizes the diversion of 0.06 cfs and annual volume of 8.8 af for this purpose.
15. This right authorizes the diversion rate of 0.20 cfs and an annual diversion volume of 35.0 af for ground water recharge under Transfer 71234 as replacement of losses caused by evaporation from the three ponds associated with Right 63-31924. Ground Water Recharge is amended to Aesthetic Storage under conditions 9 and 10.
16. SD1 This right originated as all or part of right no. 65 in the Stewart Decree and the historic Boise River Water Masters records.

Decreed Date: 5/11/2007

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.

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 right(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 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 or a sheet of stationery. There is no handwriting or other markings on the page.

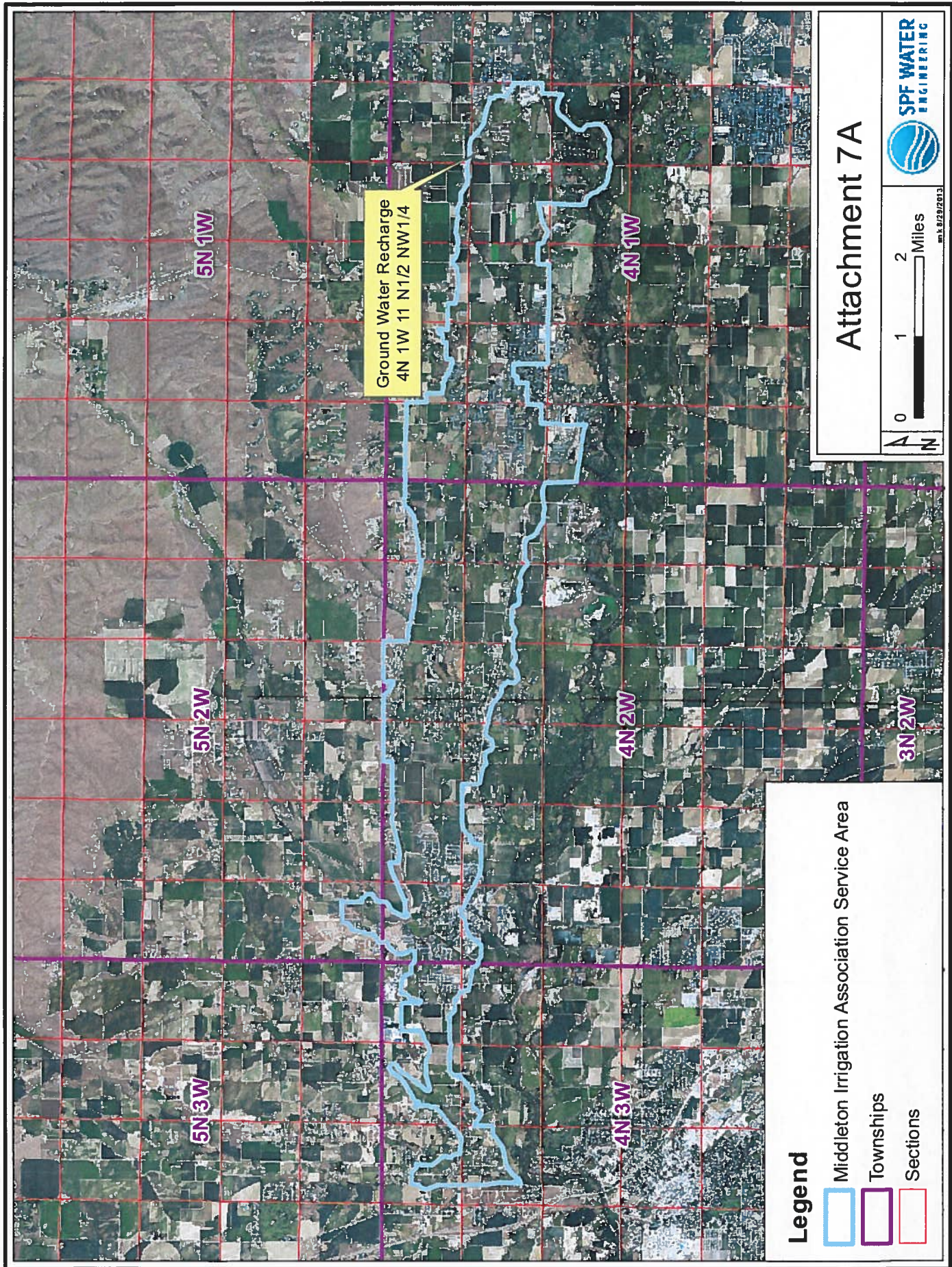
FOR DEPARTMENT USE ONLY

Transfer contains 22 pages and 5 attachments.

Received by JA Date 11/7/2013 Preliminary check by P. Nelson Date 4-13-2017

Fee paid \$ 500 Date 11/7/2013 Received by JA Receipt # W041637

Add'l fee paid \$250 Date 3/4/2016 Received by CJ Receipt # W043941



Attachment 7A

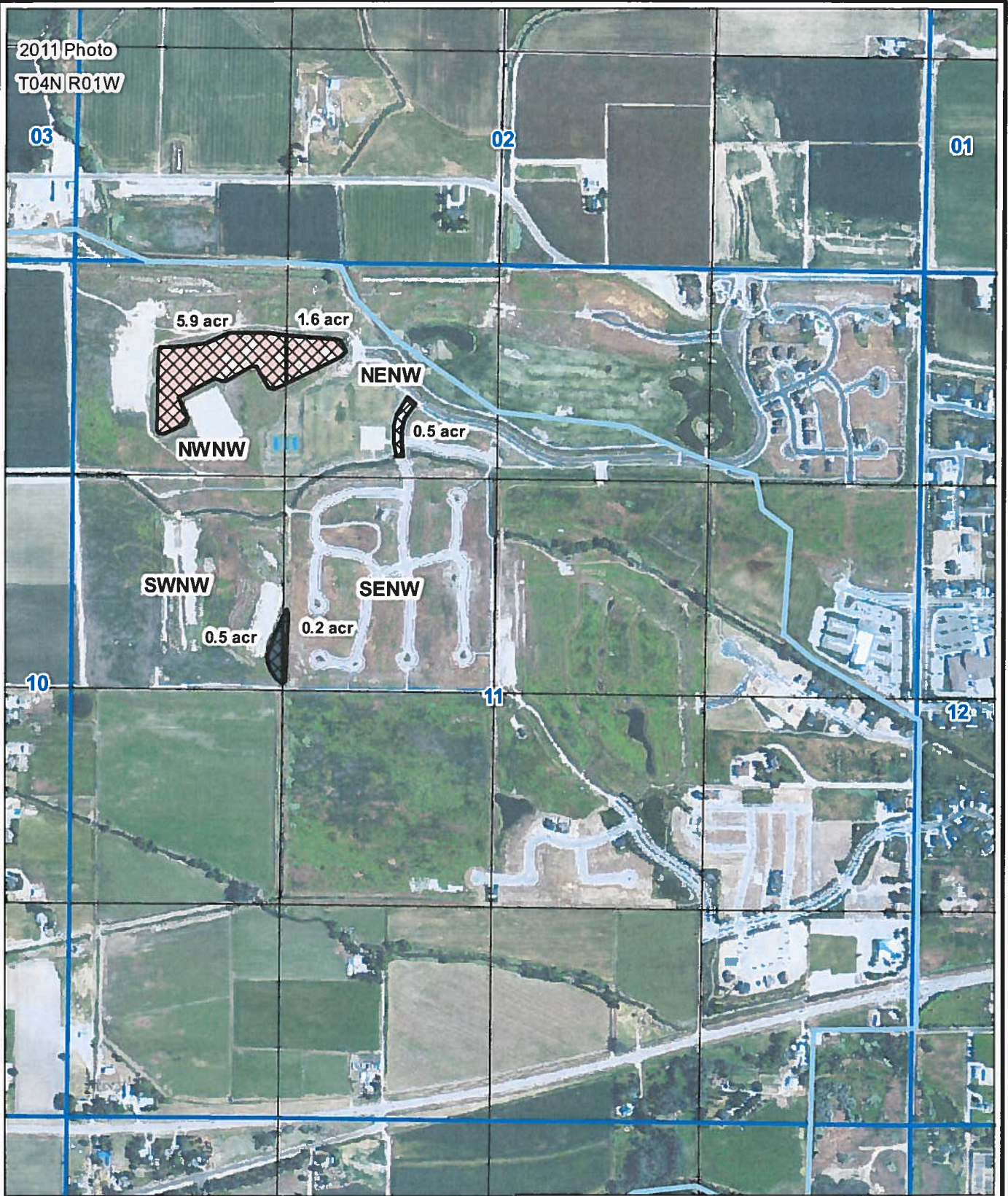


DATE: 8/29/2013

Legend

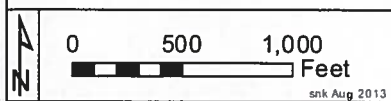
-  Middleton Irrigation Association Service Area
-  Townships
-  Sections

2011 Photo
T04N R01W



-  Middleton Irrigation Association Service Area
-  Non-Irrigated (8.7 acres)
-  Ground Water Recharge

Transfer Attachment 7b



ATTACHMENT 8A
WATER BALANCE

WATER BALANCE AND CHANGES TO 63-198AC

ET_{Idaho} 2012, Caldwell NWS Station
Precipitation Deficit Requirements

Grass Pasture - high management															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Non Growing Season ^b	Annual
Mean	mm/day												mm		
Monthly ^c	-0.16	0.14	0.97	3.98	5.7	6.55	7.17	5.58	3.4	1.63	-0.57	-0.4	1069	-36	1033

Open water - shallow systems (ponds, streams)															
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Non Growing Season ^b	Annual
Mean	mm/day												mm		
Monthly ^c	-0.83	0.18	1.22	2.51	3.74	4.22	5.01	4.27	3.06	1.89	-0.12	-0.78	753	0	753
days / month	31	28	31	30	31	30	31	31	30	31	30	31			365
mm / month		5.0	37.8	75.3	115.9	126.6	155.3	132.4	91.8	58.6					799

- a 799 mm/yr, Net annual positive-month precipitation-deficit pond consumptive use (from above, open water, annual use)
b 2.62 ft/yr, Net annual precipitation-deficit pond consumptive use ($b = a / 304.8$)
c 11.7 acres, pond surface area (from pond permit application)
d 30.7 af/yr, total annual pond consumptive use ($d = b \times c$) and **changed to ground water recharge** by transfer
e 1069 mm/yr, net annual precipitation-deficit grass pasture consumptive use (from above, grass pasture, growing season)
f 3.51 ft/yr, Net annual precipitation-deficit grass pasture consumptive use ($f = e / 304.8$)
g 8.7 acres of grass pasture consumptive use required to offset pond consumptive use ($g = d / f$)
h 0.02 cfs/acre, the combined duty of water for Middleton Irrigation Association (MIA) water rights
i 0.17 cfs, quantity of MIA irrigation component **changed to ground water recharge** by transfer ($i = g \times h$)

Changes to 63-198AC			
	Pre-Transfer	Changed by Transfer	Post-Transfer
Irrigation, cfs	109.76	-0.17	109.59
Aesthetic Storage, afa	56.0	0.0	56.0
Diversion to Storage, cfs	0.33	0.00	0.33
Ground water recharge, afa	0.00	30.7	30.7
Ground water recharge, cfs	0.00	0.17	0.17
Total, cfs	110.09	0.00	110.09
Acres, combined limit	9381.5	-8.7	9372.8
Duty, combined limit, cfs/acre	0.02	0.02	0.02

ATTACHMENT 9
IRRIGATION ASSESSMENT

LAST NAME:

Cloua Berry, LLC

MAILING ADDRESS:

C/o Brian McColl

P.O. Box 1359

Caldwell ID 83606

Property Address:

Additional Info:

Justin Mervin

Shares:

265-

Certificate No: 1197

884-8327/890-0451

Lateral:

Football

Comments:

Mosca Seca Sub 1 #2 & portion of quadrant
Uncle

from: Legacy Idols (966)

9/2011

78947



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 30, 2017

MIDDLETON IRRIGATION ASSN
PO BOX 848
MIDDLETON, ID 83644

RE: Transfer No. 78947
Water Right No(s). 63-198AC

Dear Applicant(s):

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 IDAHO STATESMAN on 12/7/2017 and 12/14/2017. 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,

Rachel Neely
Administrative Assistant

CC:

BRYCE FARRIS
SAWTOOTH LAW OFFICES PLLC
1101 W RIVER ST STE 110
PO BOX 7985
BOISE, ID 83707

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, November 30, 2017 9:33 AM
To: 'BOI Legals'
Subject: Ada Legal Ads
Attachments: Ada Cover Letter.docx; Ada Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ads for publication on 12/7/2017 & 12/14/2017.

Please confirm these are okay to publish as shown.

Thank you,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

November 30, 2017

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Application for Permit No. 63-33872
Application for Transfer No. 78947

Dear Legal Notice Department:

Please publish the enclosed legal notices on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notices 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 12/26/2017. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

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

63-33872

CLOUD BERRY LLC

6401 W FLOATING FEATHER RD

EAGLE, ID 83616

(3)Points of Diversion NENE S11 T04N R01W ADA County Source GROUND WATER

Points of Diversion NWNE NENW NWNW SWNW S11 T04N R01W ADA County Source GROUND WATER

Use: AESTHETIC STORAGE 01/01 to 12/31 244 AF

Total Diversion: 244 AF

Date Filed: 11/7/2013

Place of Use: AESTHETIC STORAGE

T04N R01W S11 NENE NWNE NW(ALL)

Water bearing zone to be appropriated is from 0 to 28 feet.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78947

MIDDLETON IRRIGATION ASSN, PO BOX 848, MIDDLETON, ID 83644; has filed Application No. 78947 for changes to the following water rights within ADA County(s): Right No(s). 63-198AC. This transfer proposes a nature of use change from irrigation use to ground water recharge for purposes of providing mitigation for consumptive losses associated with application for permit 63-33872. Consumptive losses from the seven (7) ponds totaling 11.7 acre surface area is 30.7 af. Water under 63-198AC will be delivered to a pond within the proposed system under 63-33872 to the SW of Linder and Floating Feather Road.

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 12/26/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 12/7/2017 and 12/14/2017

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, November 30, 2017 11:26 AM
To: 'Rex Barrie'
Subject: Application for Permit No. 63-33872 & Application for Transfer No. 78947
Attachments: Watermaster Recommendation Form_F.pdf; Application for Permit No. 63-33872.pdf; Application for Transfer 78947.pdf

November 30, 2017

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

RE: Application for Permit No. 63-33872 & Application for Transfer No. 78947

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 December 26, 2017.

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,

Rachel Neely

Administrative Assistant I
IDWR-Western Region
2735 Airport Way Boise, ID 83705
Rachel.Neely@idwr.idaho.gov

Kelly, Patrick

From: Kelly, Patrick
Sent: Friday, October 27, 2017 12:06 PM
To: 'Scott King'; 'Lori Graves'; 'bryce@sawtoothlaw.com'
Subject: Cloud Berry/ Middleton Assn Applications
Attachments: additional info.pdf; WITHDRAWAL_OF_APPLICATION_FOR_PERMIT.pdf; withdrawal-of-application-for-transfer.pdf

Dear Representatives,
Please find the letter attached to this email.
Regards,

Patrick Kelly
Water Resource Agent, Senior
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705
p: 208.334.2190
f: 208.334.2348
patrick.kelly@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 27, 2017

COPY

SCOTT KING

VIA EMAIL: SKING@SPFWATER.COM

S BRYCE FARRIS

VIA EMAIL: BRYCE@SAWTOOTHLAW.COM

LORI GRAVES

VIA EMAIL: LGRAVES@SPFWATER.COM

RE: Application for Permit 63-33872 and Application for Transfer 78947

Dear Representative(s):

On November 7, 2013, Cloud Berry LLC filed an application for permit to appropriate water for aesthetic storage uses in Section 11, Township 4 North, Range 1 West. With this application, Middleton Irrigation Association filed transfer 78947 to provide mitigation to the consumptive use.

The department has been holding these applications since this time. This is notice that the applications mentioned above will be submitted for advertising on November 28, 2017. The announcement period will begin the first two weeks in December. The applicants have until November 28 to submit a withdrawal form. I have included this form to this email for your convenience.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 for additional information. Thank you for your attention to these matters.

Respectfully,

Patrick Kelly
Water Resource Agent, Sr.

Enclosure(s): Application withdrawal forms