

RECEIVED

DEC 29 2011

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 78340MINIMUM 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 <http://www.idwr.idaho.gov/>.

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 transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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.
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- ☐ ☒ #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 <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/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.)
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- ☐ ☒ #9 Other. Please describe:

AMENDED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. 78340

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DEC 29 2011

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

WATER RESOURCES  
WESTERN REGION

Name of Applicant(s) Purity Sweet, Inc. Phone (208) 404-6190

Mailing address 315 East Avenue H, Jerome, Idaho 83338 Email None

- ☐ 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.
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Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

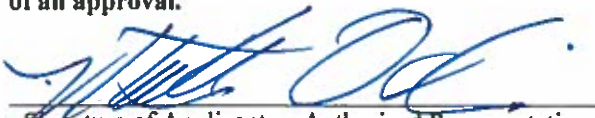
☐ No Representative

Name of Representative Isaac Keppler Phone (208) 934-8872

Mailing address PO Box 32, Gooding, Idaho 83330 Email ikeppler@capitolawgroup.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

Isaac Keppler  
Print Name and Title if applicable

12-28-2011  
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. See Attached

AMENDED

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<br>(cfs/ac-ft) | Nature of Use            | Period of Use  | Source & Tributary          |
|--------------------------------------------------------------------------|--------------|-----------------------|--------------------------|----------------|-----------------------------|
| <input checked="" type="checkbox"/> All or <input type="checkbox"/> Part | 51-4037      | .04                   | Commercial - change      | 01/01 to 12/31 | Source: Murphy Hot Springs; |
| <input type="checkbox"/>                                                 |              |                       | nature of use as defined | to             | Tributary: Jarbidge River   |
| <input type="checkbox"/>                                                 |              |                       | in Part A1.2             | to             |                             |
| <input type="checkbox"/>                                                 |              |                       |                          | to             |                             |
| <input checked="" type="checkbox"/>                                      | 51-4037      | .02                   | Domestic - no change     | to             | Source: Murphy Hot Springs; |
| <input type="checkbox"/>                                                 |              |                       |                          | to             | Tributary: Jarbidge River   |
| <input type="checkbox"/>                                                 |              |                       |                          | to             |                             |
| <input type="checkbox"/>                                                 |              |                       |                          | to             |                             |
| <input type="checkbox"/>                                                 |              |                       |                          | to             |                             |

Total authorized under rights .06 cfs and/or \_\_\_\_\_ ac-ft

2. Total amount of water proposed to be transferred or changed .04 cubic feet per second and/or \_\_\_\_\_ 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 |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |

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: \_\_\_\_\_

See Attached Part 1B.5.a

- b. Who owns the property at the point(s) of diversion? Purity Sweet, Inc.

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: No.

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:

None.

- 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:

None.

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

Yes No

- |                                     |                                     |                                                                                               |
|-------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | undergone a period of five or more consecutive years of non-use,                              |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | currently leased to the Water Supply Bank,                                                    |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently used in a mitigation plan limiting the use of water under the right, or             |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: \_\_\_\_\_

.02 CFS of Water Right 51-4037 is currently leased by Purity Sweet, Inc. to the Water Supply Bank and is also being used by Purity Sweet, Inc., so that it can bottle water during the time period this application is pending.

Total Acres (for irrigation use) \_\_\_\_\_

per original appl prior to minimum fee increase to \$200, assume ok ✓ - SE

## PART 1A.2

The current decree for water right 51-04037 includes .04 CFS for commercial use. The comments further define that commercial use by stating "Commercial use is for pool, baths, internal lodge use and 1 trailer." IDWR has interpreted the bottling of water for the purpose of selling offsite as inconsistent with that commercial use. The purpose of this transfer application is to clarify the definition of the water currently decreed for commercial use so that bottling water for the purposes of selling is consistent with the definition of commercial use. Currently, none of the amounts transferred are used for irrigation. Because this application seeks only a clarification in the definition of commercial use, the proposed amount transferred will be the entire .04 CFS, but a portion of that flow will continue to be used for pool, baths, internal lodge use and 1 trailer, and will only be used for bottling to the extent there is a demand for water.

PART 1B.5.a

Water flowing from Murphy Hot Springs rises naturally and is captured within a series of pipes. There is no pump or other means to “enhance” the rate of flow. The rate of flow is controlled through the pipes and through a series of lock valves. Currently, the rate of flow is measured by hand-calculating gallons per second and then setting the valves to achieve the correct rate of flow. The current system of pipes is sophisticated enough to accommodate other measuring devices if necessary.

Should lockable controlling works be required, that could be accomplished either by placing locks on the valves, or by installing a lockable box over the entire system of works.

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

**Current Water Right No.:** 51-4037

**Current Owner:** PURITY SWEET INC

**Priority Date:** 6/20/1885

**Origin:** Water Right

**Status:** Water Supply Bank      Active

**Basis:** Decreed

**Source**

MURPHY HOT SPRINGS

**Tributary**

EAST FORK JARBIDGE RIVER

**Beneficial Use**

**From To**

**Diversion Rate**

**Annual Volume**

DOMESTIC

01/01 to 12/31

0.02 CFS

COMMERCIAL

01/01 to 12/31

0.04 CFS

**Total Diversion**

0.06 CFS

**Location of Point(s) of Diversion**

MURPHY HOT SPRINGS

SW1/4NW1/4NW1/4

Sec. 24, Twp 16S, Rge 09E B.M.

OWYHEE County

**Place of Use**

**DOMESTIC Within OWYHEE County**

T16S R09E S24

NWNW

**COMMERCIAL Within OWYHEE County**

T16S R09E S24

NWNW

**Conditions of Approval:**

1.      C18      THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(8), IDAHO CODE.
2.                      WATER TEMPERATURE MEASURED AT 117 DEGREES F.
3.      N10      THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4.      N12      THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
5.                      COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

Decreed Date: 12/11/2003

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

TRANSFER APPLICATION NO. 75921

Regarding water right No. 51-4037

Attachment #8a

**AFFIDAVIT OF MICHAEL  
FARNSWORTH  
(Attachment #8a)**

STATE OF IDAHO )  
 ) ss.  
County of Gooding )

Michael Farnsworth, being first duly sworn upon his oath, deposes and states:

1. I am over the age of 18, am familiar with the facts as stated herein and am competent to testify to said facts.
2. I make this affidavit in support of the requirements of Part 3, B of the Transfer Application No. 75921 for water right No. 51-4037. The only portion of this water right that is subject to transfer is .04 CFS which has been designated for commercial use.
3. I am involved with Purity Sweet, Inc., and am primarily responsible for the day to day bottling operations.
4. I have spent a great deal of time at Murphy Hot Springs, Idaho, and am familiar with the history of water right No. 51-4037, including how the water right has been used for the past several years.

5. Since water right No. 51-4037 was decreed, the commercial portion of that right (.04 CFS) has been used to provide a continuous flow of water to a swimming pool. That water is then discharged back into the aquifer. The commercial portion of this water right has also been used to provide a continuous flow of hot water to several "hot tubs" or bathtubs used for recreational soaking. The commercial portion of this water right has also been continuously used to provide water to one trailer and for internal lodge use. In recent years, part of the commercial portion of the water right has been used for bottling drinking water. Attached hereto and incorporated herein as Exhibit A is a true and correct account of the amount of water that Purity Sweet, Inc., has sold as bottled water. In order to market the brand, Purity Sweet, Inc., has also given away approximately the same amount of bottled water each year. Any flow of water up to the maximum .04 CFS that is not being diverted for bottling, is being used by the swimming pool, the hot tubs and/or the trailers. The lodge is not presently in service.

6. Since December, 2003, the maximum rate of flow that has been diverted for the commercial portion of water right No. 51-4037 is .04 CFS. The maximum annual volume diverted has been approximately 28.95 acre feet. The maximum annual volume that was consumptive was approximately 2 acre feet. Presently, the maximum annual volume that has been used for preparing and selling bottled water is .12 acre feet. Upon finalization of this transfer application and with continued marketing, I estimate that the annual consumptive volume will slowly increase up to a maximum of 2 acre feet, but will never exceed the historical amount of consumptive use.

7. The proposed transfer will not injure other water right owners. The transfer only seeks to clarify the specific nature of commercial use. It will not increase rate of flow, annual diversion volume, or annual consumptive volume under water right No. 51-4037. Additionally, other water right owners who also divert from Murphy Hot Springs have arranged their diversion works so that when water is bottled it does not interfere with their diversions. The proposed transfer will not reduce the quantity of water available to other water right holders. Therefore, there will be no injury to other water rights.

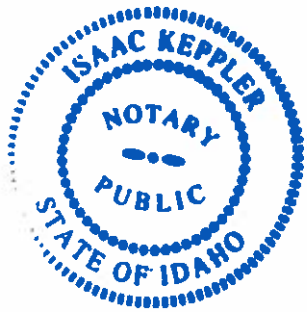
8. The proposed transfer will be in the local public interest as defined by I.C. § 42-202B(3). The Murphy Hot Springs area lies adjacent to the Jarbidge River in the Jarbidge River Canyon. There are a few homes within the canyon in the general vicinity. With respect to the people living in the Murphy Hot Springs area, there will be no negative impact.

9. Purity Sweet, Inc., is otherwise in compliance with State and Federal law regarding the bottling of water. The primary regulatory body is the United States Food and Drug Administration (FDA). Pursuant to FDA regulations, Purity Sweet, Inc., submits monthly water samples to ensure water quality, and has consistently met all requirements in this regard.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
Michael Farnsworth

SUBSCRIBED AND SWORN to before me this 28 day of December, 2011.



Isaac Keppler

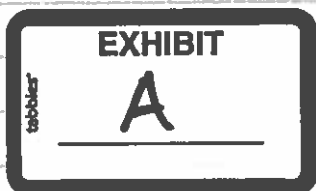
NOTARY PUBLIC for Idaho

Residing at MOUNTAIN HOME

My Commission Expires 5-10-2016

# Water Sales

|         | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|---------|-------------|-------------|-------------|-------------|-------------|
| \$      | 11,244.     | 38,036.     | 33,863.     | 31,264.     | 21,977      |
| gallons | 4,216       | 18,437      | 11,874      | 12,604      | 10,988      |



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AUG 31 2009

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 78340  
75921

## MINIMUM REQUIREMENTS CHECKLIST

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- ☐ ☒ #9 Other. Please describe: \_\_\_\_\_

*Superseded*

RECEIVED

AUG 31 2009

WATER RESOURCES  
WESTERN REGIONSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESTransfer No. 78340APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1Name of Applicant(s) Purity Sweet, Incorporated Phone (208) 212-2009Mailing address 315 East Avenue H, Jerome, ID 83338 Email None

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it Attachment #1.
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Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative Emil F. Pike, Jr., Attorney at Law Phone (208) 734-9960Mailing address P.O. Box 302, Twin Falls, ID 83303-0302 Email pefjr@qwestoffice.net☐ 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] MATTHEW OLIVUS 8-28-2009  
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date  
President of Purity Sweet, Inc. President of Purity Sweet, Inc.  
Signature of Applicant or Authorized Representative Print Name and Title if applicable Date

## A. PURPOSE OF TRANSFER

- ☐ Change point of diversion ☐ Add diversion point(s) ☐ Change place of use  
☒ Change nature of use ☐ Change period of use ☐ Other \_\_\_\_\_
- 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. To include as a commercial use of water right to bottle and sell water and the right to heat commercially 5 trailers. The existing decree defines commercial use for pool, baths, internal lodge use, and 1 trailer.

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<br>(cfs/ac-ft) | Nature of Use                                                                                        | Period of Use | Source & Tributary                                         |
|-----------------------------------------------------------------------------|--------------|-----------------------|------------------------------------------------------------------------------------------------------|---------------|------------------------------------------------------------|
| All or Part<br><input checked="" type="checkbox"/> <input type="checkbox"/> | 51-4037      | 0.04 cfs              | Expanding commercial use to include bottling and selling of water and provide heating for 5 trailers | 0/01 to 12/31 | Murphy Hot Springs tributary to Jarbridge River, East Fork |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |
| <input type="checkbox"/> <input type="checkbox"/>                           |              |                       |                                                                                                      | to            |                                                            |

Total authorized under rights 0.06 <sup>\*\*</sup>cfs and/or \_\_\_\_\_ ac-ft <sup>\*\*</sup>under Right NO: 51-4037: 0.02 cfs under Right NO: 51-07347.

2. Total amount of water proposed to be transferred or changed 0.04 cubic feet per second and/or \_\_\_\_\_ 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 |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |

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: Through the means of piping.

- b. Who owns the property at the point(s) of diversion? Purity Sweet, Inc.

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: No.

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: There will be no change.

- 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: None.

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

Yes No

- |                          |                                     |                                                                                               |
|--------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | undergone a period of five or more consecutive years of non-use,                              |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently leased to the Water Supply Bank,                                                    |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently used in a mitigation plan limiting the use of water under the right, or             |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Total Acres (for irrigation use) \_\_\_\_\_

**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**.

1. 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. Historically, this property has been used for, among other things, the purchase and selling of water. The water has been used in running a restaurant and has been sold to travelers. There are witnesses who remember purchasing water from the former owners of said property, namely Harry and Anita Showalter. The main reason for Mr. Olivas to be involved in the purchase of said property was to bottle and sell water from the hot spring. Identification No.: Water Right 51-4037 which is herein applicable provided as of January 21, 1994, total quantity appropriated 0.06 cfs specifically including commercial from 1/1 to 12/31 0.02. Historically as of January 21, 1994 the water right designates 0.02 for commercial purposes. The Application for Transfer is simply to clarify that commercial is inclusive of bottling and selling water. It is submitted that a commercial use contemplates the buying and selling of goods which, it is submitted, would include the selling of water. See attached letter of Harry Showalter and Anita Showalter dated September 19, 1996, wherein they advise, "...the main reason for purchasing the hot springs was to bottle and sell the water."

**FOR DEPARTMENT USE ONLY**

|                         |                     |                        |                          |
|-------------------------|---------------------|------------------------|--------------------------|
| Transfer contains _____ | pages and _____     | attachments.           |                          |
| Received by <u>SB</u>   | Date <u>8-31-09</u> | Prelim. Check by _____ | Date _____               |
| Fee Paid <u>\$100-</u>  | Date <u>8-31-09</u> | Received by <u>DB</u>  | Receipt # <u>W037843</u> |
| Add'l Fee Paid _____    | Date _____          | Received by _____      | Receipt # _____          |

[illegible]

I 434-6804

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,  
IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 51-4037  
Date Received: 1/21/94  
Receipt No: W017415  
Received By:NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

## 1. Name of Claimant(s)

MATTHEW OLIVAS Phone: (208)857-2233

DESERT HOT SPRINGS  
ROGERSON ID USA 83302

## 2. Date of Priority: 07/01/1934

## 3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER EAST FORK

## 4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County | Type |
|----------|-------|---------|-----------------------|--------|------|
| 16S      | 09E   | 24      | NW NW                 | OWYHEE |      |

## 5. Description of diverting works:

PIPELINE, GRAVITY FED TO HOUSE, LODGE, HOT BATHS &amp; SWIMMING POOL

## 6. Water is used for the following purposes:

| Purpose    | From | To    | C.F.S. | (or) A.F.A |
|------------|------|-------|--------|------------|
| COMMERCIAL | 1/01 | 12/31 | 0.02   |            |
| HEATING    | 1/01 | 12/31 | 0.04   |            |
| DOMESTIC   | 1/01 | 12/31 | 0.02   |            |

7. Total Quantity Appropriated is:  
0.06 C.F.S.

## 8. Total consumptive use:

## 9. Non-irrigation uses:

## 10. Place of use:

| Township | Range | Section | 1/4 of 1/4 Lot | Use     | Acres |
|----------|-------|---------|----------------|---------|-------|
| 16S      | 09E   | 24      | NW NW          | HEATING |       |

Cindy

10/4/6

E

Please send general reply highlighting:  
- processing delay attributed to staff  
shortage etc.

Sept. 19, 1996

- will keep them posted

- ask for them to advise us if  
learn that applicants lose ownership  
etc. of property.

ced

Thanks,  
JR

Dear Mr. Lester,

I called you, I believe it was  
in July, in regard to the water  
rights in Murphy Hot Springs.

We are the Showalters, Harry  
and Grita. We sold the Hot  
Springs in Feb. 1994 to Matthew  
Oliver of Rupert, Id. He had it  
put in his daughter Sylvia's name.  
-matts' main reason for purchasing  
the Hot Springs was to battle & sell  
the water.

I believe you are aware that  
the place is in foreclosure and  
he has, or is going to file for

### bankruptcy - Chapter 13.

Matt Olivas had not had the water rights changed to his name until this summer, 1996 nor had he filed for a permit to sell the water. He has been bottling and selling the water since the summer of 1994. He has two other men involved in the operation. Frank Peterson of Heyburn, Sd. and Matt Clauson of Pocastello, Sd. He made agreements with each man without telling the other one and got each one to put money into the operation.

Our main concern is that if he is granted a permit to sell the water, it will complicate getting the water back for recreational purposes in the event of our getting the Hot Springs

back.

We are under a lot of stress and even though we have attorneys working on the foreclosure & bankruptcy, we feel that these facts should be brought out and if you could give us any information or help, it would be greatly appreciated.

Thank you,  
Sincerely,  
Harry B. Showalter  
Anita I. Showalter  
Murphy Hot Springs  
Rogerson, Id. 83302  
208-857-2267

P.S. I have also written a letter to Mr. Randy Stone of the Southwest Dist. Health Dept.

## Plat map

RECEIVED

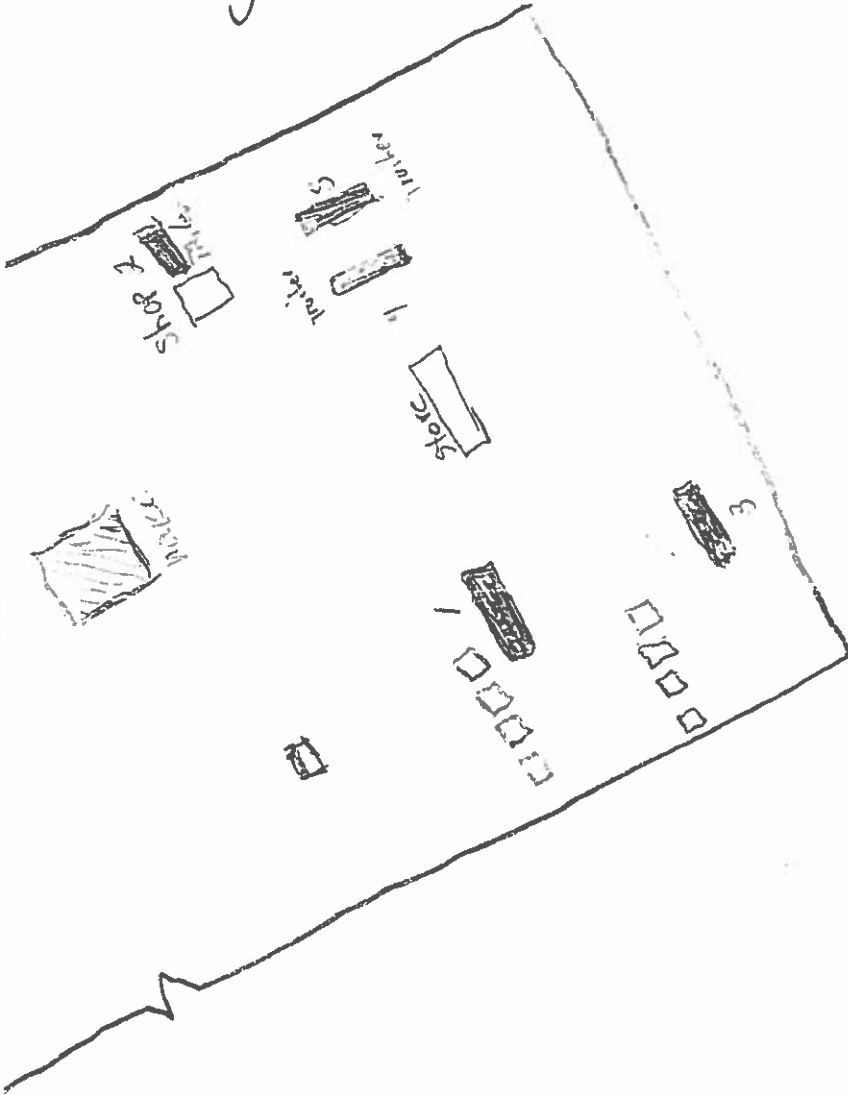
SEP 04 2013

WATER RESOURCES  
WESTERN REGION

APPL-NO 75921

Steve Lester additional information you requested,  
Please contact me if you have any questions  
or need more information Thank you

Matt new Oliver's 404-6190  
Kerity Sweet



Hoise 611 acre feet

1. 366 Ave. Feet

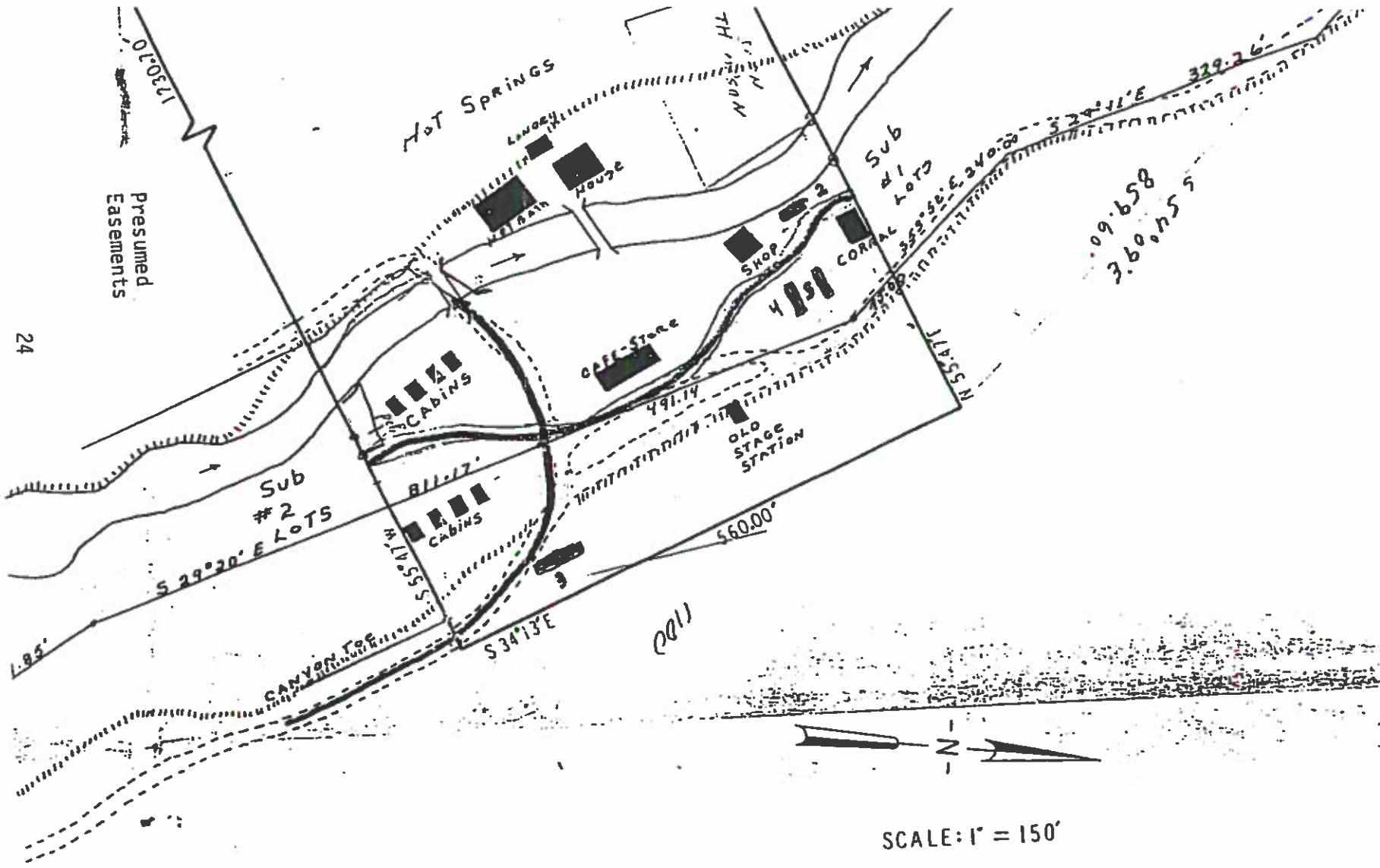
of 366 Ave. 1st

3.366 acres

h. 366. 422

5.36 acre

# Plat Map



RECEIVED  
SEP 04 2013  
WATER RESOURCES  
WESTERN REGION



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER, Governor  
GARY SPACKMAN, Director

June 5, 2013

PURITY SWEET INC  
C/O ISAAC KEPPLER  
CAPITOL LAW GROUP PLLC  
PO BOX 32  
GOODING ID 83330

Re: Application for Transfer No. 78340 (previous No. 75921), Water Right No. 51-4037

Dear Isaac:

The above referenced transfer application was recently renumbered due to an update in the Idaho Department of Water Resources (IDWR) computer system. I am writing you again regarding additional information IDWR requested on February 7, 2013. Recently the applicant called and asked what type of information he needed to provide. We discussed possible retirement of lawn irrigation, if any, associated with the water right. He submitted a one page document apparently referencing this, copy enclosed. The document does not speak for itself by responding to the questions in my previous letter.

Commercial use under the right does not appear to include consumptive use beyond modest evaporation from the pool. Domestic use is limited to 0.02 cfs, not to exceed 13,000 gallons/day.<sup>1</sup> That daily limit is typically associated with a single home or multiple homes under one ownership in which total yard irrigation associated with the home(s) does not exceed ½ acre. Assuming lawn irrigation, each acre would provide about 2.2 acre-feet of consumptive use.<sup>2</sup>

Apparently the applicant suggests about 0.06 acre of irrigation<sup>3</sup> might be available to retire for consumptive use associated with present and projected bottling of water. Thus, 0.06 acre of fully retired lawn irrigation would provide about 0.132 acre-foot (about 43,000 gallons) for annual consumptive use.

Please confirm if this the applicant's proposal. If so, please use the enclosed aerial photo or something similar to mark irrigation associated with the water right since 2008<sup>4</sup> that can be retired. There does not appear to be much if any irrigation in the photo.

<sup>1</sup> The decreed right is not a determination of the extent of domestic beneficial use. This means the right does not necessarily include 13,000 gallons/day for domestic use.

<sup>2</sup> See enclosed "ET Idaho" consumptive use information. Assumed the Grasmere site is similar to Murphy Hot Springs area.

<sup>3</sup>  $[ 610 \text{ sq ft} + (5 \times 366 \text{ sq ft}) ] / 43,560 \text{ sq ft per acre} = 0.056 \text{ or } 0.06 \text{ acre.}$

<sup>4</sup> The right was decreed in 2003 and is presumed valid for at least five years after that, through 2008. Confirmation of valid beneficial use is needed since then.

Application for Transfer No. 78340

June 5, 2013

Page 2

Note that watering native vegetation is typically not considered an irrigation beneficial use. Please provide another plan addressing consumptive use for bottling of water if the above assumed proposal is not correct.

Please submit the requested information within the next ninety (90) days. You may seek additional time to provide the information by making a written request to delay processing. Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a rejected application. However, a rejected application may be re-filed when adequate information can be provided.

Please contact me if you have any questions or need more information. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", written over a horizontal line.

Steve Lester  
Water Rights Supervisor

Enclosures:    Olivas Plat Map  
                  ET Idaho Consumptive Use Guide  
                  Aerial Photo

Cc:                Matthew Olivas, Purity Sweet Inc.  
                  (without enclosures)

## MURPHY HOT SPRINGS 2011 PHOTO



# MURPHY HOT SPRINGS



# Plot Map

RECEIVED

MAY 16 2013

WATER RESOURCES  
WESTERN REGION

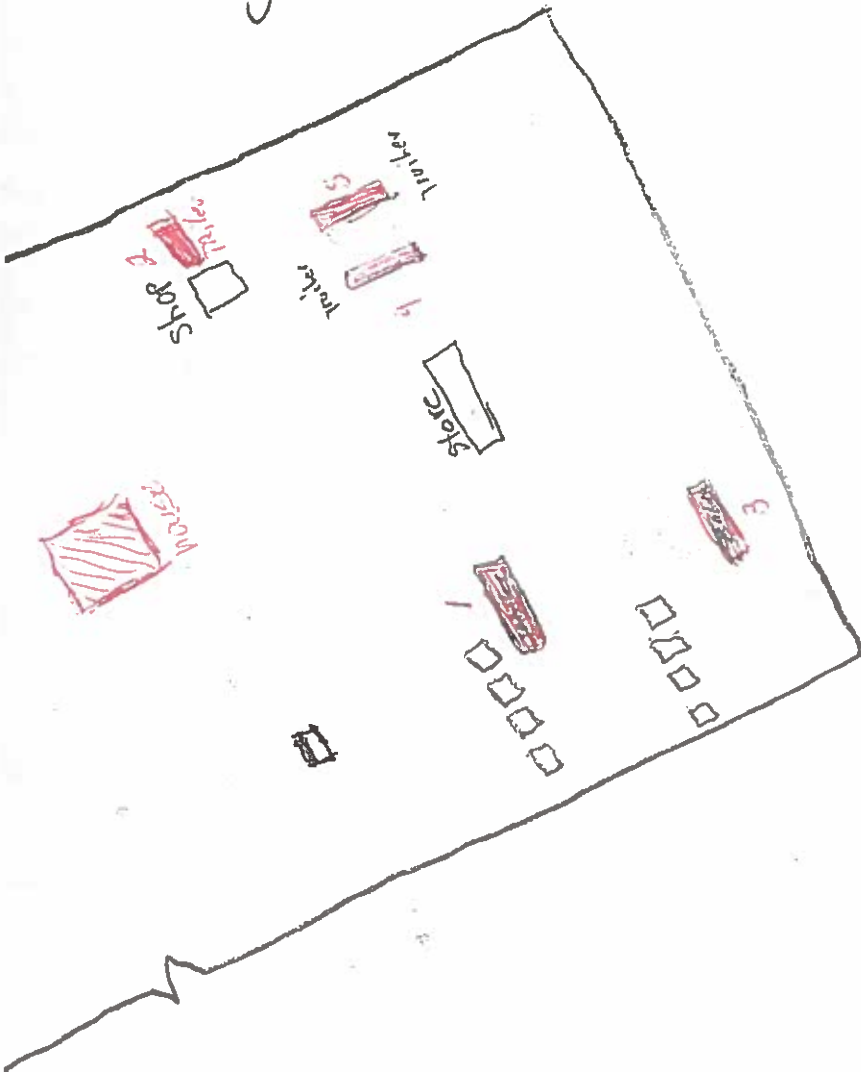
APPL-NO 75921

Steve Lester additional information you request

Please contact me if you have any questions  
or need more information Thank you

Matthew Oliver 404-67190

Purity Sweet



House 610 acre feet

Trailer 1. 366 acre feet

2. 366 acre feet

3. 366 acre feet

4. 366 acre feet

5. 366 acre feet



## State of Idaho

### DEPARTMENT OF WATER RESOURCES

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER, Governor  
GARY SPACKMAN, Director

February 7, 2013

PURITY SWEET INC  
C/O ISAAC KEPPLER  
CAPITOL LAW GROUP PLLC  
PO BOX 32  
GOODING ID 83330

Re: Application for Transfer No. 75921

Dear Isaac:

Thank you for submitting the amended transfer application for water right no. 51-4037. Additional information regarding consumptive use is needed to determine if the application is approvable.

The amended application includes an affidavit discussing beneficial use. The affidavit states that since the right was decreed in 2003, water has been diverted continuously for commercial use including a swimming pool, hot tubs, one trailer and internal lodge use. The information states the lodge is not in use at this time. It also notes 2 acre-feet (AF) per year for consumptive (emphasis added) commercial use without defining how this was determined. The affidavit concludes that the maximum annual volume for bottled water sold and given away has been 0.12 AF, probably increasing to 2 AF per year in the future.

Exhibit A of the affidavit summarizes bottled water sold from 2007 through 2011. Doubling those amounts (water given away) estimates the total annual amount. This information shows an average amount of bottled water distributed to be about 23,200 gallons per year, which is about 0.07 AF ( $23,200/325,850 = 0.07$ ).

The transfer application appears to propose from 0.07 to 2 AF per year for bottled water. Distributing bottled water is considered fully consumptive under these circumstances. Consumptive use of water used for "pool, baths, internal lodge use and 1 trailer" defined in this right must be reduced to allow an equal amount for bottled water. This is necessary to prevent an enlargement of use. Those uses are generally considered non-consumptive except evaporative losses, if any, from a pool and baths.

The amended application does not include the following information:

- Methodology to determine 2 AF/year consumptive use for authorized commercial purposes.
- Identification of a reduction in commercial use for at least 0.07 AF and not to exceed 2 AF consumptive use per year.

Application for Transfer No. 75921

February 7, 2013

Page 2

Please submit the requested information within the next ninety (90) days. You may seek additional time to provide the information by making a written request to delay processing. Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a rejected application. However, a rejected application may be re-filed when adequate information can be provided.

Please contact me if you have any questions or need more information. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", with a stylized, flowing script.

Steve Lester  
Water Rights Supervisor



RECEIVED  
MAY 08 2012  
WATER RESOURCES  
WESTERN REGION

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

May 4, 2012

Chris Adamo  
58265 Cedar Pt. Dr.  
Rogerson, ID 83302

Virginia Canavero  
58409 Manford Dr.  
Rogerson, ID 83302

RE: Murphy Hot Springs

Dear Ms Adamo and Ms. Canavero,

As a courtesy to Chris Adamo, I am responding to the packet of information you mailed into the Department back on March 6, 2012. Most, if not all, of the information submitted has been reviewed previously by the Department and my office. Although the information describes numerous incidents, most of these incidents do not fall under the jurisdiction of the Idaho Department of Water Resources ("IDWR"). Purity Sweet Inc. is not illegally diverting water and is presently in compliance with IDWR laws and authorized to temporarily divert and bottle water for offsite use under a water bank rental. Purity Sweet Inc. has an application for transfer pending before IDWR to permanently change its water right from bottling for onsite use to bottling for offsite use. Once that transfer application is advertized by IDWR, you will have the opportunity to contest the transfer should you choose.

As I have explained to Chris numerous times, the allegations she describes to me and the allegations contained within your submitted information are either crimes or civil matters outside the jurisdiction of IDWR. The Sheriff of Owyhee County maintains jurisdiction to prosecute for crimes, not IDWR. If the incident is not criminal, your legal recourse is to commence a civil action in district court. I understand and can appreciate that you had an unpleasant and expensive experience with your previous attorney, but the state cannot use public resources to provide legal services in private dispute.

I recently spoke with the chief deputy for Owyhee County to inquire whether Sheriff's office would be interested in arranging a meeting with Matt Olivas to discuss public safety concerns at Murphy Hot Springs. Matt had called me complaining that certain individuals were packing firearms trying to intimidate his employees and guests. I informed Matt that this is a

matter for the Sheriff, not IDWR, but that I would call the Sheriff and suggest that a meeting with might be appropriate given the firearms.

Finally, IDWR provided the services of Mat Weaver as a courtesy and a resource to the Sheriff who was trying to settle a very difficult and long ongoing dispute. Although the parties reached an agreement at the February 2011 meeting, neither party could fall through and sign the agreement prepared by the Sheriff. If the parties cannot reach an agreement and require outside professional assistance from engineers and others, they should prepare to incur the expense of such assistance directly. It is not appropriate for IDWR to assign a state engineer to design a private water distribution system.

Sincerely,



John W. Homan  
Deputy Attorney General  
Natural Resource Division

c. Gary Spackman  
Tim Luke  
John Westra

RECEIVED

DEC 29 2011

WATER RESOURCES  
WESTERN REGION

December 27, 2011

Steve Lester  
2735 Airport Way  
Boise, Idaho 83705

Re: Transfer Application No. 75921

Dear Steve:

Enclosed please find a supplemental transfer application for water right No. 51-4037. My clients have attempted to supply the additional requested information. Please note that I have not included additional maps, as it appears the maps submitted with the prior application were sufficient.

In the event the supplemental application is deemed insufficient, I would ask that you identify the deficiencies and delay processing so that we can supplement that information, rather than rejecting the application. Thank you very much for your patience and assistance with this matter.

Sincerely,

Capitol Law Group, PLLC



Isaac D. Keppler

IDK  
Cc: client



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

PHONE: (208) 334-2190 FAX: (208) 334-2348 [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C.L. "BUTCH" OTTER, Governor  
GARY SPACKMAN, Interim Director

July 20, 2011

PURITY SWEET INC  
C/O ISAAC KEPPLER  
CAPITOL LAW GROUP PLLC  
PO BOX 32  
GOODING ID 83330

Re: Application for Transfer No. 75921

Dear Isaac:

Thank you for your letter confirming you represent the above referenced applicant for this transfer application. The Idaho Department of Water Resources (IDWR) is currently reviewing the application to change water right no. 51-4037. Additional information is needed to evaluate and process the application.

A copy of the application is enclosed for your records. I understand the applicant intends to submit an amended application. Please provide the information outlined in the enclosed IDWR notes when amending the application. Additional fees are not needed to do this.

Please submit the requested information for application processing to continue. You may seek additional time to provide the information by making a written request to delay processing. Your written response including the requested information, or a request for more time to seek the information, must be received by **December 31, 2011**.

Without a timely reply, IDWR will issue a preliminary order to reject the application. The application fee will not be refunded for a rejected application. A rejected application may be re-filed when adequate information can be provided.

Please contact me if you have any questions or need more information. Thank you for your attention to this matter.

Sincerely,

Steve Lester  
Water Rights Supervisor

Enclosure: Copy of application  
IDWR application notes

**TRANSFER APPLICATION 75921  
IDWR NOTES**

July 20, 2011



Part 1, A.2 – heating is not considered part of domestic or commercial uses. Adding a use to a right (heating) is presumed to be an expansion, even if added use is shown to be non-consumptive.

Part 1, B.1 – list current uses & associated cfs per use as defined by the right; delete reference to 51-7347 (lapsed permit).

Part 1, B.3 & 4 – incomplete (no response made).

Part 1, B.5 – incomplete (how would water be controlled & measured?).

Part 2, A – copy of right was not attached (can use enclosed copy printed today); Part 2, B n/a in this case.

Part 3, B – need to show validity of right, including extent of beneficial use since right decreed 12/2003.

For commercial use portion of right, show since 12/2003:

- maximum rate of flow diverted (cubic feet per second)
- maximum annual volume diverted (acre feet)
- maximum annual diversion volume that was consumptive (acre feet)
- estimated maximum annual volume (acre feet) that has been &/or will be will be diverted & used for bottled water
- preparing and selling bottled water is presumed to be 100% consumptive unless shown otherwise.

Data &/or other supporting information for these factors must reasonably support the conclusion that the right was fully used after it was decreed. Must also show that preparing & selling bottled water has not &/or will not expand the rate of flow, the annual diversion volume, or the annual consumptive volume historically used under the right (cannot expand any of those parameters).

The applicant must provide information showing the proposed transfer will not injure other water right owners.

The applicant must provide information showing the proposed transfer is in the local public interest. This is particularly acute based on the controversial history for the site. This should also include the status of any other approvals needed for preparing and selling bottled water (county, state etc.), including on-site and off-site consumption of water by customers.

The applicant must demonstrate the proposed transfer is not contrary to conservation of water resources in Idaho.



**Isaac D. Keppler**

www.capitollawgroup.com • ikeppler@capitollawgroup.com

July 19, 2011

Steve Lester  
2735 Airport Way  
Boise, Idaho 83705

**SENT VIA FACSIMILE TO (208) 334-2348**

Re: Transfer Application No. 75921 (Matthew Olivas' application)

Dear Steve:

This letter is to confirm that I will be representing Matthew Olivas in his application for transfer of a water right (application No. 75921). As we discussed, this matter was originally handled by Emil Pike, and it is my intent to file an amended application, rather than stand on the application which was previously filed.

I would appreciate it very much if you would send me a copy of the application filed by Mr. Pike, as I believe this would be a good starting point. You could PDF it to my email address listed above, or fax it to (208) 934-8873, if either method is convenient for you. Thanks again for your assistance, and I'll be in touch in the near future.

Sincerely,

Capitol Law Group, PLLC

A handwritten signature in black ink, appearing to read 'Isaac Keppler'. The signature is fluid and cursive, with the first name 'Isaac' being more prominent than the last name 'Keppler'.

Isaac D. Keppler

IDK  
Cc: client

## **Conversation Memo/Notes**

### **Olivas/Purity Sweet Transfer 75921**

**From: J. Westra**

**Date: 06/08/11**

#### **RE: Status Processing of Transfer—J. Homan 06/08/11**

John Homan, SO discussed the need to begin processing the above transfer application. The water bank lease/rental is due to run out, so the transfer should dovetail into it. I discussed, we would work the application into our normal processing. The application appears to deficient with additional information and edits needed. We will inform the applicant of what is needed with a set deadline in writing after initial processing.

Note: The applicant's attorney Mr. Pike is deceased. The contact is the applicant for now.

**+EMIL F. PIKE, JR.**  
**ATTORNEY and COUNSELOR at LAW**

*P.O. Box 302  
Twin Falls, ID 83303-0302*

*Telephone: (208) 734-9960  
Fax Number: (208) 734-9960*

August 28, 2009

State of Idaho Department  
Of Water Resources  
Western Division  
2735 Airport Way  
Boise, ID 83705

RECEIVED

AUG 31 2009

WATER RESOURCES  
WESTERN REGION

**Re: Purity Sweet, Incorporated**

Dear Sirs:

On behalf of Purity Sweet, Inc., please find enclosed an Application for a Transfer of Water Usage. This office is enclosing the application fee in the amount of \$100.00 payable to the Idaho Department of Water Resources.

Thank you for your assistance.

Very truly yours,



Emil F. Pike, Jr.

EFP:mek

Enclosures

Cc: John Homan, Deputy Attorney General  
Purity Sweet, Inc., c/o Matthew Olivas