

RECEIVED

AMENDED
MAR 27 2017STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 03 2017

DEC 29 2016

APPLICATION FOR TRANSFER OF WATER RIGHT - POINT OF DIVERSION
WATER RESOURCES
WESTERN REGIONWATER RESOURCES
WESTERN REGIONDEPARTMENT OF
WATER RESOURCES

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☐ Add diversion point(s) ☒ Ownership change ☐ Ownership split

1. APPLICANT(S) DeRuyter Dairy, LLC Phone (208) 697-4626
 2. MAILING ADDRESS PO Box 580 City Marsing
 State ID Zip 83639 Email NSDeruyter@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 57-2292 and 57-7047

- ☐ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov Water Right Transfers, Step 1, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 1.45 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. POINT OF DIVERSION - Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov Water Right Transfers, Online Resources.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			SW	SE	19	3N	4W	Owyhee	Ground Water	
			NE	NE	30	3N	4W	Owyhee	Ground Water	
			SW	NE	30	3N	4W	Owyhee	Ground Water	
			NE	NW	30	3N	4W	Owyhee	Ground Water	
			NW	SE	30	3N	4W	Owyhee	Ground Water	
Yes			NE	NE	30	3N	4W	Owyhee	Ground Water	
Yes			SE	SE	30	3N	4W	Owyhee	Ground Water	

6. 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:

The transfer is intended to add 2 new well PODs to the current water supply system for the dairy. The new wells will be connected into the existing distribution system.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. 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 used in a mitigation plan limiting the use of water under the right(s), or
☐ ☐ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☐ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. MAP - ☐ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The Map Tool, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. SIGNATURE - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Auranne M. Derlyter
Signature of applicant or authorized agent

SIKIANNE DERLYTER
Print name and title if applicable
MANAGING PARTNER

12-29-16
Date

[Signature]
Signature of applicant or authorized agent

Print name and title if applicable

Date

9. FEE - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes 5 pages of attachments.

Received by VC

Date 12/29/16

Fee paid \$500

Date 12/29/16

Received by VC

Receipt # C102837

Preliminary review by CR

Date 2-10-17

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐

Name on W-9

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 - confidential information is held by fiscal only)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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APPLICATION FOR TRANSFER OF WATER RIGHT – POINTS OF DIVERSION

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WESTERN REGION
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 State ID Zip 83639 Email NSDeruyter@gmail.com

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3. LIST WATER RIGHT NUMBER(S) 57-2292 and 57-7047

- ☐ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 1.45 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

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			NE	NW	30	3N	4W	Owyhee	Ground Water	
			NW	SE	30	3N	4W	Owyhee	Ground Water	
Yes			NE	NE	30	3N	4W	Owyhee	Ground Water	
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- 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:

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If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

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Yes No

- ☐ ☐ undergone a period of five or more consecutive years of non-use,
☐ ☐ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☐ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

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- ☐ If yes and there are multiple owners, attach a [Lessor Designation](#) form.
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7. **MAP** - ☐ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Suzanne M. Deluyter
Signature of applicant or authorized agent

SUZANNE DELUYTER
Print name and title if applicable
MANAGING PARTNER

12-28-16
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the [Application for Transfer Instructions](#).

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Transfer includes 5 pages of attachments.

Received by VC

Date 12/29/16

Fee paid \$500 Date 12/29/16

Received by VC

Receipt # C102837

Preliminary review by _____

Date _____

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

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

Current Water Right No.: 57-2292

Current Owner: DE RUYTER DAIRY LLC
NICOLAAS J DE RUYTER
SUZANNE M DE RUYTER

Priority Date: 4/14/1966

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.89 CFS	117.6 AF
COMMERCIAL	01/01 to 12/31	0.89 CFS	151.9 AF
	<u>Total Diversion</u>	0.89 CFS	269.5 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SE1/4	Sec. 19,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	NE1/4NE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	SW1/4NE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	NE1/4NW1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	NW1/4SE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				

Place of Use

STOCKWATER Within OWYHEE County

T03N R04W S30	NENE	T03N R04W S30	NWNE
T03N R04W S30	NENW	T03N R04W S30	SENW

Place of Use: COMMERCIAL same as STOCKWATER

Page _____ of _____

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. RIGHT 57-2282 SHALL NOT EXCEED A DIVERSION RATE OF .89 CFS AND AN ANNUAL DIVERSION VOLUME OF 288.5 AF FOR STOCKWATER AND COMMERCIAL USES AS A DAIRY.
3. The total instantaneous diversion of water from all points of diversion under Transfer 5007 shall not exceed 5.32 cfs, nor total combined annual volume of 1632.0 af.

Decreed Date: 2/9/1998

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

Current Water Right No.: 57-7047

Current Owner: DE RUYTER DAIRY LLC
NICOLAAS J DE RUYTER
SUZANNE M DE RUYTER

Priority Date: 3/1/1971

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.14 CFS	8 AF
IRRIGATION	03/15 to 11/15	0.56 CFS	272.1 AF
	<u>Total Diversion</u>	0.56 CFS	280.1 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4NW1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	NE1/4NE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	SW1/4NE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	NW1/4SE1/4	Sec. 30,	Twp 03N,	Rge 04W B.M.
OWYHEE County				
GROUND WATER	SW1/4SE1/4	Sec. 19,	Twp 03N,	Rge 04W B.M.
OWYHEE County				

Place of Use

STOCKWATER Within OWYHEE County

T03N R04W S30	NENE	T03N R04W S30	NWNE
T03N R04W S30	NENW	T03N R04W S30	SENW

IRRIGATION Within OWYHEE County

T03N R04W S19	SWSW	15.00	T03N R04W S19	SESW	26.00
T03N R04W S19	SWSE	27.00	T03N R04W S19	SESE	16.00
T03N R04W S30	SWNE	40.00	T03N R04W S30	SENE	39.00
T03N R04W S30	NENW	19.00	T03N R04W S30	NWNW	13.00
T03N R04W S30	SWNW	7.00	T03N R04W S30	SENW	23.00
T03N R04W S30	NESE	39.00	T03N R04W S30	NWSE	37.00

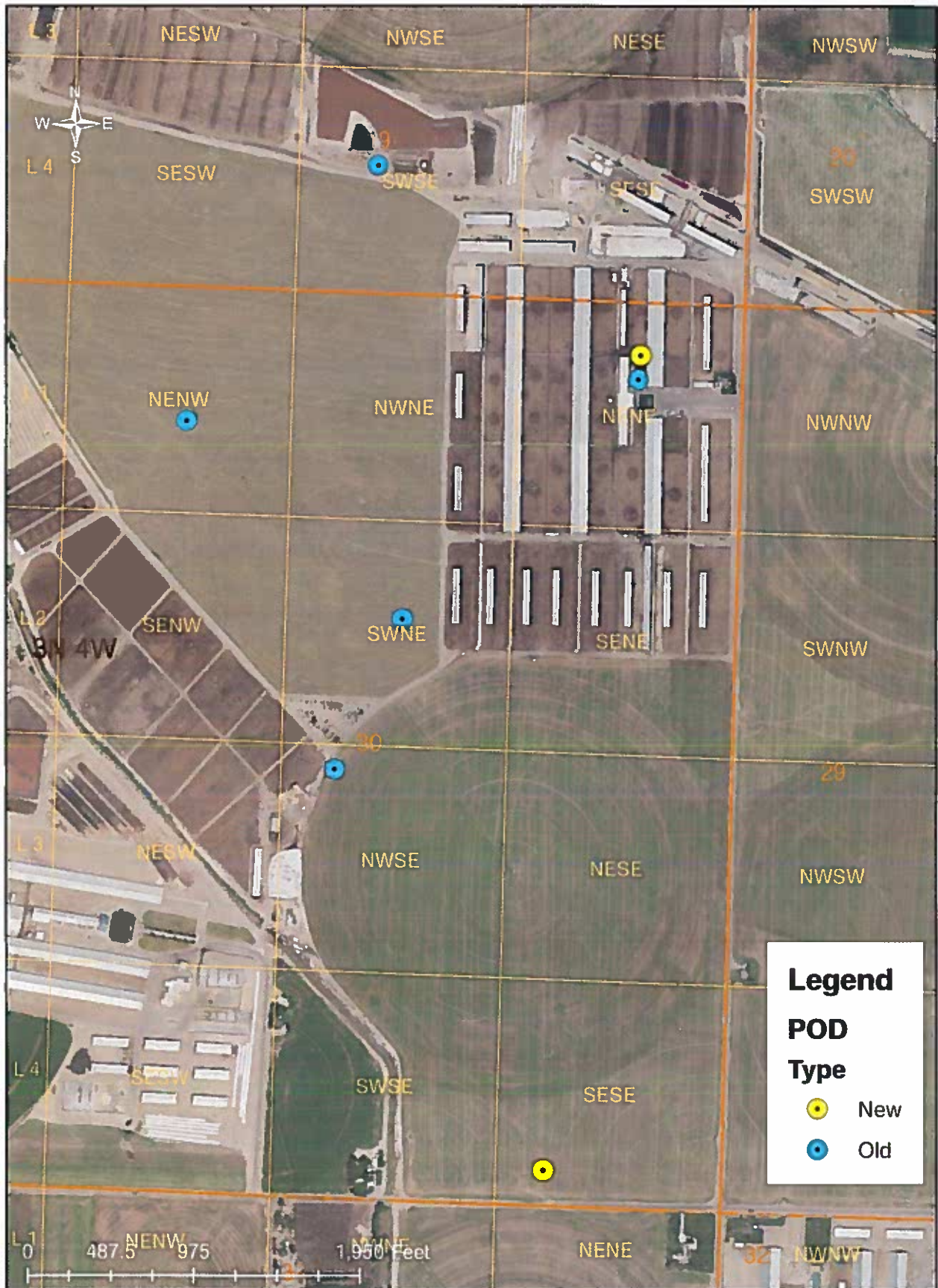
Total Acres: 301

Conditions of Approval:

- RIGHTS 57-2335 AND 57-7047 SHALL NOT EXCEED A TOTAL COMBINED DIVERSION RATE OF 4.43 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1382.5 AF, AND THE IRRIGATION OF 301 ACRES.
- THE TOTAL INSTANTANEOUS DIVERSION OF WATER FROM ALL POINTS OF DIVERSION UNDER TRANSFER 5007 SHALL NOT EXCEED 5.32 CFS, NOR A TOTAL COMBINED ANNUAL VOLUME OF 1632.0 AF.
- W01 USE OF THIS RIGHT IS COMBINED WITH WATER FROM GEM IRRIGATION DISTRICT.
- STOCKWATER, 600 RANGE CATTLE.
- N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
- 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.
- N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
- THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 30, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE MARCH 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.

Decreed Date: 1/24/2003

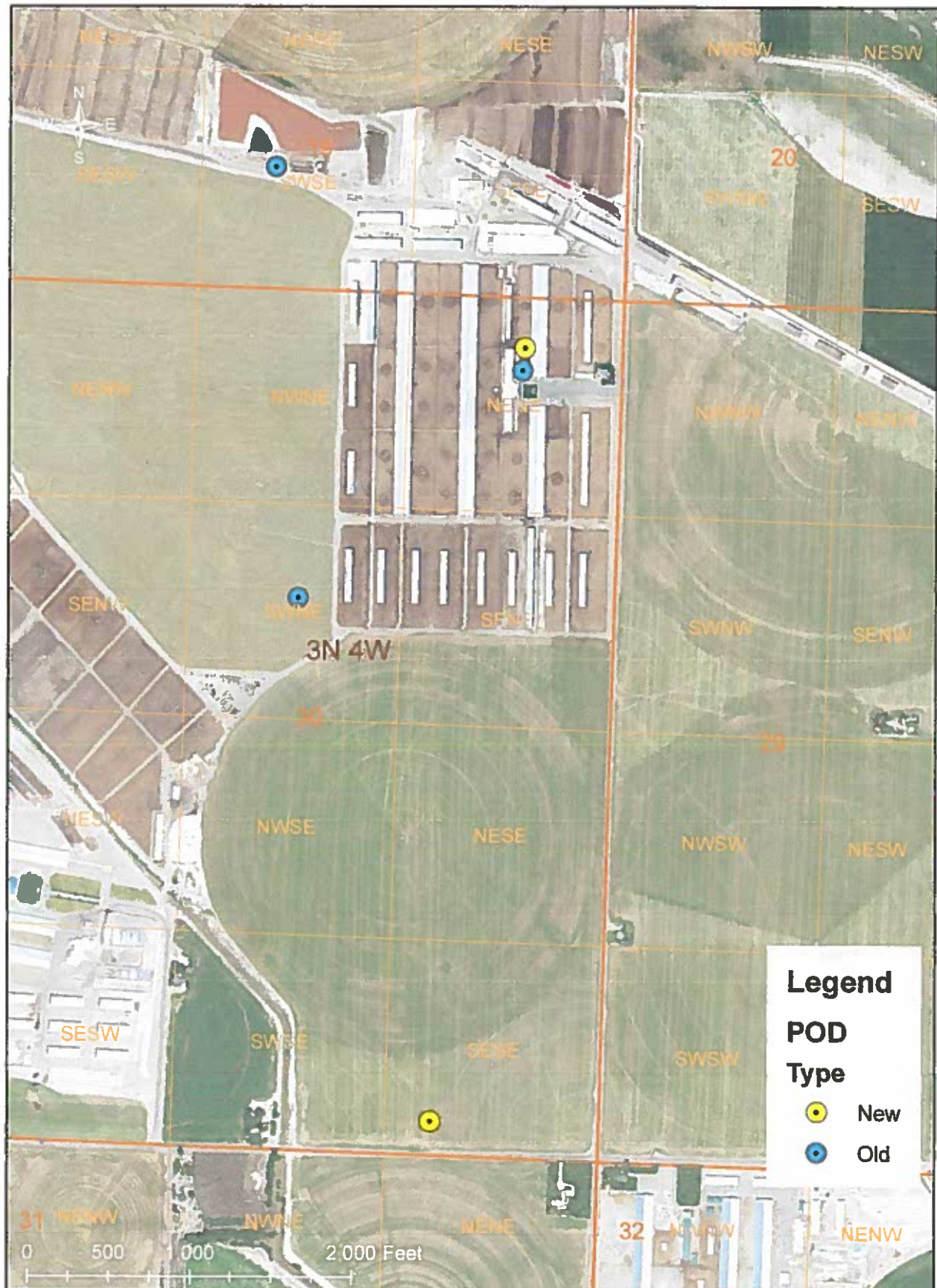
DeRuyter Dairy LLC Transfer Application



Based on 2015 NAIP Photography

Prepared for DeRuyter Dairy LLC by ERO 12-2016

DeRuyter Dairy LLC Transfer Application





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

May 11, 2017

DE RUYTER DAIRY LLC
PO BOX 580
MARSING, ID 83639-0580

RE: Transfer No. 81376
Water Right No(s). 57-2292, 57-7047

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 OWYHEE AVALANCHE on 5/17/2017 and 5/24/2017. 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:
ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT, ID 83617

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, May 11, 2017 1:38 PM
To: 'Jennifer Stutheit'
Subject: Owyhee Legal Ads
Attachments: Owyhee Cover Letter.docx; Owyhee Legal Ad.docx

Good Afternoon Legal Clerk,

Please see the attached ads for publication on 5/17/2017 & 5/24/2017.

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

May 11, 2017

LEGAL NOTICE DEPARTMENT
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE, ID 83628

RE: Application for Permit No. 57-11899
Application for Transfer No. 81376

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 6/5/2017. 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:

57-11899

DELBERT PHIFER

1780 NIELSEN LN

HOMEDALE, ID 83628

Point of Diversion SWSE S25 T03N R06W OWYHEE County Source SAGE CREEK Tributary SUCCOR CREEK

Use: IRRIGATION 03/01 to 11/15 0.16 CFS

Total Diversion: 0.16 CFS

Date Filed: 2/14/2017

Place of Use: IRRIGATION

T03N R06W S25 SWSE

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 81376

DE RUYTER DAIRY LLC, PO BOX 580, MARSING, ID 83639-0580; has filed Application No. 81376 for changes to the following water rights within OWYHEE County(s): Right No(s) 57-2292, 57-7047. The purpose of this transfer is to add two new points of diversion to two existing rights. The new wells will be connected to the existing distribution system to supply water for the DeRuyter Dairy. The water will be used in the current place of use, north of East Thompson Rd. between Buntrock and Hogg roads, generally located approximately 5 miles southeast of Homedale, Idaho.

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 6/5/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 5/17/2017 and 5/24/2017

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, May 11, 2017 2:06 PM
To: 'todd.crutcher@deq.idaho.gov'
Subject: Application for Transfer No. 81376
Attachments: Agency Recommendation Form.docx; Application for Transfer 81376.pdf

May 11, 2017

TODD CRUTCHER
DEPARTMENT OF ENVIRONMENTAL QUALITY

RE: Application for Transfer No. 81376

Dear Mr. Crutcher:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed with this email for your reference. Please review the application, complete the enclosed recommendation form, and submit your reply, if any, to this office by the protest deadline of June 5, 2017.

If your agency desires to formally protest approval of this application, you may do so by filing a written protest along with a \$25.00 filing fee for each protested application by the protest deadline.

IDWR will assume your agency does not object to this application if a timely response is not received. Please contact me if you have any questions regarding the application. 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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 11, 2017

CTIZENS OF OWYHEE CITY
ORGANIZED ASSOCIATION
PO BOX 463
MARSING ID 83639

JOE WEATHERBY
PO BOX 547
MARSING ID 83639

Re: Application for Transfer No. 81376

Dear Interested Party:

The above referenced application may be of interest to you. I would like to inform you that the application has been submitted to the *Owyhee Avalanche* for advertising. I have enclosed a copy of the application for your convenience. This information is also available on our website www.idwr.idaho.gov.

If you desire to file a formal protest against approval of the application, a written protest along with the \$25.00 protest fee must be received in this office by **June 5, 2017**. A copy of the protest must also be sent to the applicant.

If you have any questions regarding the application, please contact this office at 208-334-2190.

Sincerely,

Rachel Neely
Administrative Assistant
Western Regional Office

Enclosures



RECEIVED

MAR 27 2017

WATER RESOURCES
WESTERN REGION

Via Email – Hard Copy with Original Signatures Will Follow

March 24, 2017

Mr. Cody Parker
Water Resource Agent
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

RE: Application for Transfer of Water Right No. 81376

Dear Cody:

As we discussed by phone, the DeRuyters are anxious to have a new well(s) drilled for the dairy part of their operation seeking to improve the quality of the water used in their dairy. A revised map is attached showing only the wells used in the dairy operation.

The well in the SW¼SE¼ Sec 19 Twp 3N Rge 4W, B.M. is used only with the operation of their lagoon but is included here because it is associated with the dairy. The wells in the NE¼NE¼, SW¼NE¼ Sec 30 Twp 3N Rge 4W, B.M. are the wells that provide water to the dairy and the livestock.

The well driller may begin by attempting to drill a replacement well in the NE¼NE¼ Sec 30 Twp 3N Rge 4W, B.M. and if it should be successful may be the only well construction required. The DeRuyters are trying to be proactive and be prepared to drill another well near the south of their property if the first new well does not provide adequate water from either a water quantity or quality standpoint. The replacement well is shown as a new POD on the transfer application which will allow the existing well to be used as a backup well if necessary

We also discussed the need to address the irrigation portion of these water rights and that will be done in a separate application to follow.

Referring to your letter of March 1, 2017, the applicant is seeking to have this transfer processed under option 4 of your letter.

Denver
1842 Clarkson St.
Denver, CO 80218
303.830.1188

Durango
1015 ½ Main Avenue
Durango, CO 81301
970.422.2136

Hotchkiss
P.O. Box 932
161 South 2nd St.
Hotchkiss, CO 81419
970.872.3020

Idaho
4001 East Main Street
Emmett, ID 83617
208.365.7684

www.eroresources.com

Consultants in
Natural Resources
and the Environment

Thank you in advance, please let me know if you have questions or need any additional information regarding this application for transfer.

Yours truly,

A handwritten signature in black ink that reads "Dave". The signature is written in a cursive, flowing style.

David Shaw

Enc.

cc: DeRuyter Dairy LLC



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

March 1, 2017

DERUYTER DAIRY LLC
PO BOX 580
MARSING ID 83639

RE: Application for Transfer of Water Right No. 81376

Dear Applicants,

I am writing to you today in regard to Application for Transfer No. 81376. The Idaho Dept. of Water Resources (IDWR) received this application on January 03, 2017. I have recently begun an initial review of your proposal, and require some additional information regarding your application and the proposed changes to your water rights. Please address the following items:

- I notice that the map included with your application was prepared by ERO Resources. However, I do not see a cover letter establishing that they are representing the DeRuyter Dairy for this application. If you wish to have correspondence sent to them, you will need to submit a written statement acknowledging them as a representative. Alternatively, you may have the representative submit a cover letter for this application.
- Prior to the transfer of water rights, IDWR must evaluate the validity of the rights involved and determine whether these rights are subject to forfeiture. A water right is subject to forfeiture when water has not been applied for the beneficial use authorized on the water right license or decree for a period of 5 consecutive years.

Water right No. 57-7047 authorizes the diversion of water for irrigation of 301 acres. From aerial imagery, I can identify a total of 239 acres that have been irrigated over the previous consecutive 5-year period. This means that 62 acres of irrigation are at risk of being forfeited. To address this issue you may choose one of the following:

1. Provide proof that the full acreage has been irrigated according to this water right over the previous, consecutive 5-year period.
2. Explain any applicable defenses or exceptions to forfeiture as outlined in Section 42-223, *Idaho Code*.
3. You may remove the right No. 57-7047 from the transfer application, adding the new points of diversion to No. 57-2292 only. Should you choose this option, please amend the enclosed copy of your application and return to the address in the letterhead above.
4. You may agree to a condition on an approval of this transfer that limits the use of the added POD's to the stockwater part of right No. 57-7047.

If I understand the intent of this application correctly, the POD's are being added to support commercial and stockwater uses for the dairy. I assumed that, if these additional wells were to be

used for irrigation, you would have include right No. 57-2335, which overlaps the irrigation included in 57-7047, in this transfer. If my assumption is correct, then option 4 from the list above will probably be the best option.

- Finally, to finish processing the application I will need the signature of Nicholas DeRuyter. I have included a copy of your application with this letter. Please have Mr. DeRuyter sign and return the form to the address listed in the letterhead above.

Please submit your written response to the items above to allow processing of your application to continue. I look forward to your reply within the next sixty (60) days. You may seek additional time to provide the information by making a written request to interrupt processing for up to six months. The application will be rejected without a timely written reply within the next sixty (60) days. Refunds are not issued for rejected applications.

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

Sincerely

Cody Parker
Water Resource Agent