

RECEIVED**SEP 19 2016****WATER RESOURCES
WESTERN REGION****STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**Transfer No. 81212**MINIMUM 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 www.idwr.idaho.gov.

Name of Applicant(s) Idaho Water Company LLC

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

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

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

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-10.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the applicant as the current water right owner. **
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm.
- ☐ ☒ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System ([GIS](#)) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see [fee schedule](#).
- ☐ ☒ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☒ #9 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. ([Attachment WSB](#))
- ☐ ☒ #10 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Idaho Water Company LLC Phone 208-312-1135
Mailing address 1135 Valley Rd So. Eden, Idaho 83325 Email del@idahowatercompany.com

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

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

☒ No Representative

Name of Representative _____ Phone _____
Mailing address _____ Email _____

- ☐ 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.

Idaho Water Company LLC 9/18/16
Signature of Applicant or Authorized Representative _____ Print Name and Title if applicable _____ Date _____
Delbert Kohitz Delbert Kohitz Managing Member
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**.

I am moving the Water Right (612269) from one of my
farms to the west side of the base.

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 ☒ ☐	61-12269	1.64/504	Irrigation	04/01 to 10/31	Groundwater
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 1.64 cfs and/or 504 acre-feet.

2. Total amount of water proposed to be transferred or changed 1.64 cubic feet per second and/or 504 acre-feet per year.

3. Point(s) of Diversion:

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

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
yes	5		NW	SW	19	04S	05E	Elmore	Groundwater	
yes			NE	NE	30	04S	05E	Elmore	Groundwater	

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	
04S	05E	19									40	40	40	40	28	40	40	40	308
04S	05E	30	40	40	40	40													160
Total Acres (for irrigation use)																			468

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:

Two wells with Mainlines to Pivot machines. Measuring devices will be installed when required.

- b. Who owns the property at the point(s) of diversion? Delbert and Frances Kohtz owners of Idaho Water Company LLC

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

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

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

- d. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?

If yes, ☐ complete [Attachment WSB](#).

- e. Describe the effect on the land now irrigated if the place or purpose of use is **changed pursuant to this transfer**:

Lands will be dried up if a rental Water Right is not available.

- f. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

61-12290

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

Yes No

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

If yes, describe:

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Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

9/14/2016

WATER RIGHT NO. 61-12269

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	IDAHO WATER CO LLC 1135 VALLEY RD S EDEN, ID 83325 (208) 312-1135
Original Owner	KANSAS CITY LIFE INSURANCE CO , ID
Original Owner	CRAIG K PHILLIPS
Original Owner	MARILYN PHILLIPS PO BOX 817 MOUNTAIN HOME, ID 83647
Original Owner	KAROL BRUCE
Original Owner	ROBERT L BRUCE PO BOX 254 SPRAY, OR 97874 (503)468-2355

Priority Date: 02/21/1971

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	1.64 CFS	504 AFA
Total Diversion			1.64 CFS	

Location of Point(s) of Diversion:

|NWNW|

|Range 05E|ELMORE County

GROUND WATER

Sec. 25 Township 04S

PG 6 of 9

Place(s) of use:

Place of Use Legal Description: IRRIGATION ELMORE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04S	05E	26		NENE	31.5		NWNE	31.5		SWNE	31.5		SENE	31.5

Total Acres: 126

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. 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.
3. 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.
4. R64 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15 provided that beneficial use of the water can be shown and other
5. X61 elements of the right are not exceeded. The use of water before 4/1 and after 10/31 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 10/26/2000.
6. X63 All water rights within Basin 61 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
7. F06 Rights 61-12148 and 61-12269 are diverted through the point of diversion described above.

Dates:

Licensed Date:

Decreed Date: 10/26/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 161
Generic Max Rate per Acre: 0.02
Generic Max Volume per Acre: 4
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Legend

Feature 1

Delbert And Frances Kohtz Property

PPU

To Property

Well
Main line

Well
Main line

Perimeter Rd

Nelson Rd

81212

Google earth



2000 ft

Idaho Water Company Property

From Land *126 Acres*

Legend

Perimeter Rd

81813

17

Google earth

N

1000 ft

Legend

Idaho Water Company Property

From Land

Perimeter Rd

81212

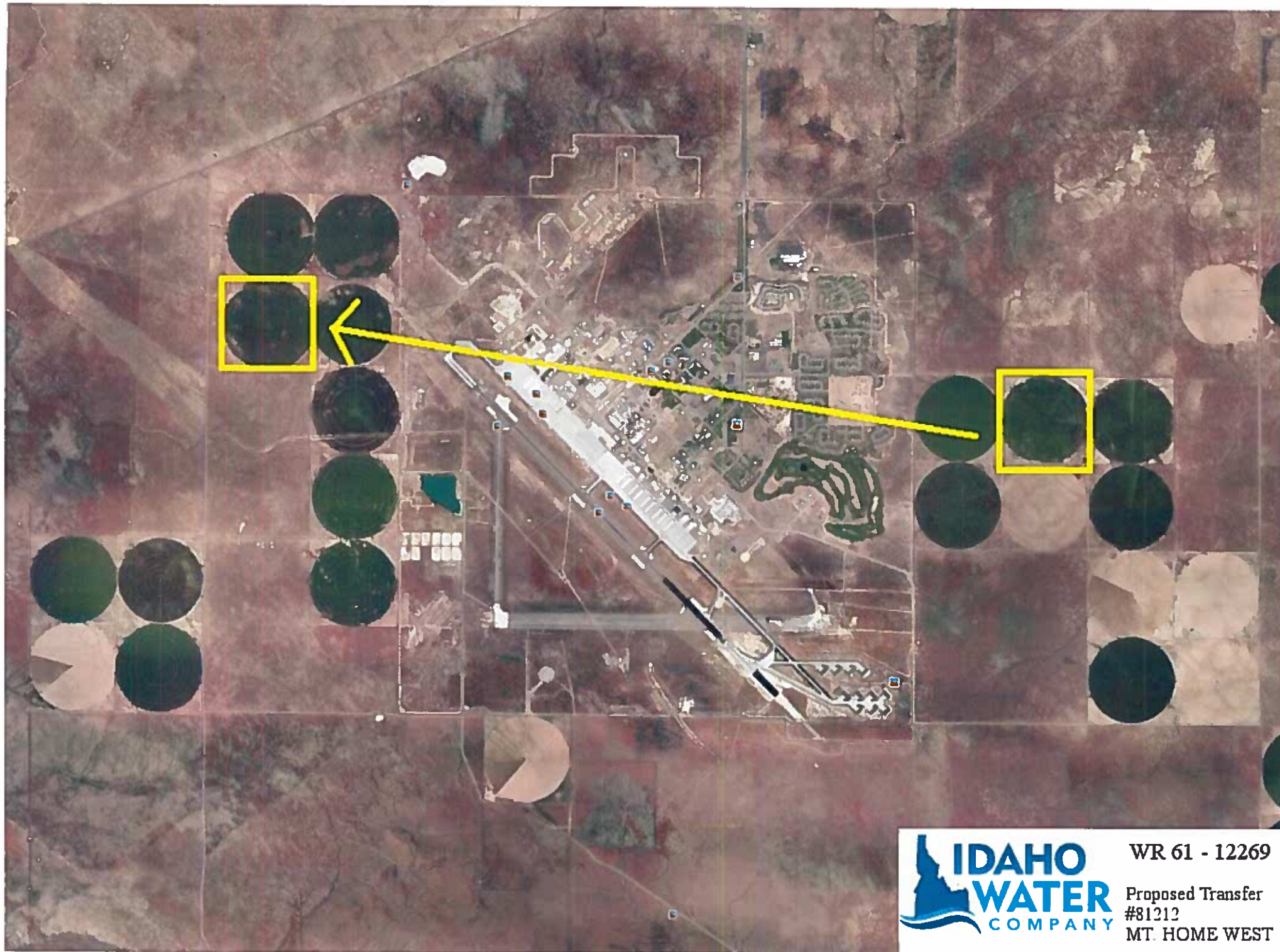
17



1000 ft

Google earth

© 2015 Google



WR 61 - 12269

Proposed Transfer
#81212
MT. HOME WEST



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

December 29, 2016

IDAHO WATER CO LLC
1135 VALLEY RD S
EDEN, ID 83325

RE: Transfer No. 81212
Water Right No(s). 61-12269

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 MOUNTAIN HOME NEWS on 1/4/2017 and 1/11/2017. 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

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, December 29, 2016 8:50 AM
To: 'Swenson, Stacy'
Subject: Elmore Legal Ad
Attachments: Elmore Cover Letter.docx; Elmore Legal Ad.docx

Good Morning Legal Clerk,

Please see the attached ad for publication on 1/4/2017 & 1/11/2017.

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

December 29, 2016

LEGAL NOTICE DEPARTMENT
MOUNTAIN HOME NEWS
PO BOX 1330
MOUNTAIN HOME, ID 83647-1330

RE: Transfer No. 81212,
Water Right No(s): 61-12269

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 1/23/2017. Your cooperation is appreciated.

Sincerely,

Rachel Neely
Administrative Assistant

Enclosure(s)

The following application has been filed to appropriate the public waters of the State of Idaho:

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81212**

IDAHO WATER CO LLC, 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 81212 for changes to the following water rights within ELMORE County(s): Right No(s). 61-12269; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The transfer proposes to change the diversion to two wells on an existing system and create a permissible place of use approximately 4 miles west of the current location, moving from one farm on the east side of Mountain Home Air Force Base to a different farm on the west side. The new site is generally located west of the Mountain Home Air Force Base between Nielson Rd and Liberator Rd just south of Hwy 67 approximately 11.5 miles southwest of Mountain Home.

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/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change(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 1/23/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 1/4/2017 and 1/11/2017

Neely, Rachel

From: Neely, Rachel
Sent: Thursday, December 29, 2016 12:15 PM
To: Miller, Nick
Subject: Application for Transfer No. 81212
Attachments: Watermaster Recommendation For1.docx; Application for Transfer 81212.pdf

December 29, 2016

NICK MILLER
WATER DISTRICT #161
IDWR WESTERN REGION

RE: Application for Transfer No. 81212

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you 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 a recommendation form, and submit your reply, if any, to this office by January 23, 2017.

IDWR will assume you do not object to this application 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



1135 Valley Road South • Eden, ID 83325 • (208) 312-1135
www.IdahoWaterCompany.com

December 16th, 2016

Angela Grimm, Western Region Water Rights Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RECEIVED

DEC 15 2016

WATER RESOURCES
WESTERN REGION
VIA EMAIL

RE: Response to requested information.
Transfer Application 81212

Dear Ms. Grimm:

Thank you for taking the time to review our application for transfer of Idaho Water Right 61-12269. This letter responds to your verbal request for clarification made on December 15, 2016. Specifically, our response to question 5(C) of the application.

The property on which the aforementioned water right is appurtenant is NOT encumbered by any liens, deeds of trust, mortgages, or contracts. No person, organization or entity holds a security interest in the water right.

If I can be of further assistance in any matter, please contact me at the number below.

Yours truly,

A handwritten signature in dark ink, appearing to read "Delbert G. Kohtz", written in a cursive style.

Delbert G. Kohtz, Owner
Idaho Water Company LLC.
(208) 312-1135
del@idahowatercompany.com



1135 Valley Road South • Eden, ID 83325 • (208) 312-1135
www.IdahoWaterCompany.com

December 16th, 2016

Angela Grimm, Western Region Water Rights Supervisor
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

RECEIVED

DEC 15 2016

WATER RESOURCES
WESTERN REGION
VIA EMAIL

RE: Request for expedition of transfer processing
Idaho Water Company's application # 81212

Dear Ms. Grimm:

Thank you for taking the time to meet with me on Thursday December 15th, 2016. The purpose of this letter is to make a formal request to expedite the transfer processing of Idaho Water Company's water transfer application # 81212.

On September 19, 2016, the department received our application to transfer water right 61-12269. The transfer application proposes to move the water right from a neighboring farm over to the nearby PPU for continued agricultural operations and in contemplation of a potential land sale. In the months since, that transaction has become no longer speculative and has in fact closed. However, surviving closing is a condition requiring successful transfer of the aforementioned water right to the new PPU. Until the department completes the requirements of the transfer process, our Special Warranty Deed for Water Rights cannot be delivered.

The water utilized under this right has always been, and will continue to be, for agricultural purposes in the Mountain Home area. As you are most certainly aware, the 2017 spring farming season quickly approaches. Planning for growing operations has already begun. The availability of this water right at the proposed PPU is critical to that endeavor.

These two issues present a compelling reason to advance the transfer process. We request you consider them, along with the right's relative ease of transfer, and expedite the application to the extent possible.

We very much appreciate the efforts of IDWR in protecting Idaho's valuable environmental resources. If you have any questions or require further documentation on this matter, please contact me at the number below.

Yours truly,

Kevin G. Kohtz, J.D.
Managing Member, Idaho Water Company LLC.
(208) 559-0974 • kevin@idahowatercompany.com