

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 80576

RECEIVED

DEC 07 2015

Department of Water Resources
Eastern Region

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) Foster Family Farms Inc

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: _____

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DEPARTMENT OF WATER RESOURCES

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Eastern Region

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) Foster Family Farms Inc Phone 208-681-6222

Mailing address PO BOX 844 ABERDEEN, ID 83210 Email _____

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

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

☐ No Representative

Name of Representative Greg Sullivan Phone 208-308-7288

Mailing address 2016 N Washington St Ste 4 Twin Falls, Idaho 83301 Email greg.sullivan@brockwayeng.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.

Marc Foster
Signature of Applicant or Authorized Representative

Lee Treb
Print Name and Title if applicable

11-19-15
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.
 Correct POU of water rights.

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 ☒ ☐	35-2221	2.4/	Irrigation	4/01 to 10/31	Ground Water
☐ ☐		0.04/	Stockwater	1/01 to 12/31	Ground Water
☒ ☐	35-7572	2.02/	Irrigation	4/01 to 10/31	Ground Water
☐ ☐		0.04/	Stockwater	1/01 to 12/31	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 4.42 cfs and/or 1148 acre-feet.

2. Total amount of water proposed to be transferred or changed 0.16 cubic feet per second and/or 42.8 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 #

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	
05S	30E	25			7.7	1.0			1.1	0.9	36	35	29.2	30.2	37.7	39.3	38	30.9	287.0
05S	30E	25																S	
Total Acres (for irrigation use)																			287.0

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Existing well, pump, mainlines and delivery system.

- b. Who owns the property at the point(s) of diversion? Foster Family Farms 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 Mortgage Holder

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:

The POU will be corrected to match current irrigation practices.

- 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:

None

- 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:

Page _____ of _____

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

Current Water Right No.: 35-2221

Current Owner: FOSTER FAMILY FARMS INC

Priority Date: 2/15/1952

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	2.4 CFS	
STOCKWATER	1/01 to 12/31	0.04 CFS	
	<u>Total Diversion</u>	2.4 CFS	

Location of Point(s) of Diversion

GROUND WATER	SE 1/4 NE 1/4 SW 1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		
GROUND WATER	SW 1/4 SE 1/4 SE 1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		
GROUND WATER	SE 1/4 NW 1/4 SE 1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		

Place of Use

IRRIGATION Within BINGHAM County

T05S R30E S25	NESW	38.00	T05S R30E S25	NWSW	34.00
T05S R30E S25	SWSW	26.00	T05S R30E S25	SESW	35.00
T05S R30E S25	NESE	40.00	T05S R30E S25	NWSE	40.00
T05S R30E S25	SWSE	40.00	T05S R30E S25	SESE	34.00

Total Acres: 287

STOCKWATER Within BINGHAM County

T05S R30E S25	SESE
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80576

Page _____ of _____

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NO. 35-07572 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 287 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 188 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
2. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
5. RIGHT NO. 35-07572 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
____STOCKWATER, 200 CATTLE
6. USE OF THIS RIGHT WITH RIGHT NO. 35-07572 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.42 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 1148 AF.

Decreed Date: 1/31/2002



- Legend
- WR_POD
 - township
 - Irrigation
 - Sections
 - ladesc

FOSTER FAMILY FARM
WATER RIGHTS/IRRIGATION
NAIP 2013 AERIAL



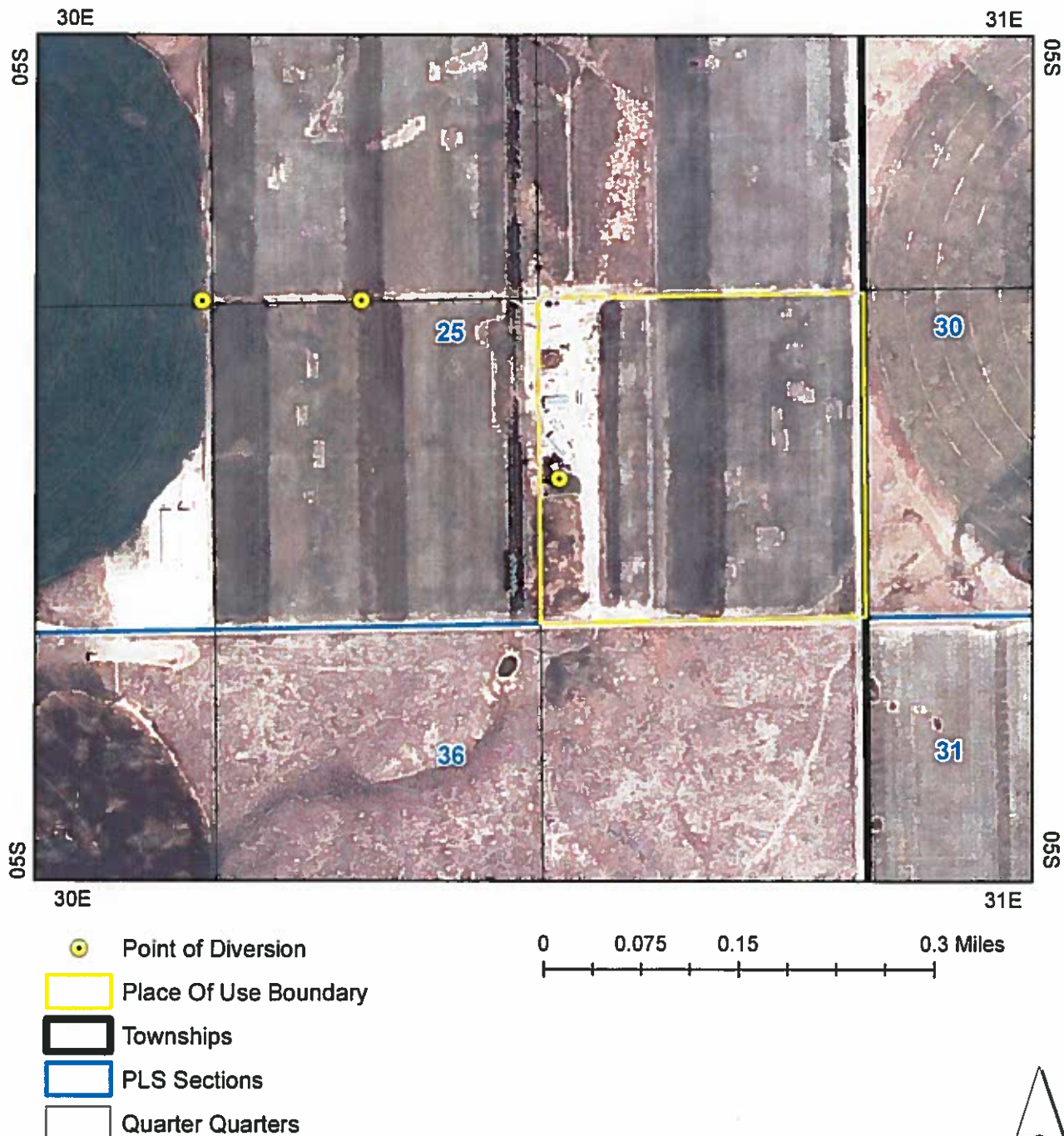
State of Idaho
Department of Water Resources

Water Right

35-7572 and 35-2221

STOCKWATER

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



In 25- SES: 35-decreed
30.2 - proposed
4.8 moved

Cellars built b/t 2006 & ~~2009~~
Not irrigated at cellars in
2008

It appears 40 acres are irrigated in NWSE
39.3 acres proposed

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

Current Water Right No.: 35-7572

Current Owner: FOSTER FAMILY FARMS INC
Priority Date: 12/30/1975
Origin: Water Right
Status: Active
Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	2.02 CFS	
STOCKWATER	1/01 to 12/31	0.04 CFS	
	<u>Total Diversion</u>	2.02 CFS	

Location of Point(s) of Diversion

GROUND WATER	SW1/4SE1/4SE1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		
GROUND WATER	SE1/4NW1/4SE1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		
GROUND WATER	SE1/4NE1/4SW1/4	Sec. 25, Twp 05S, Rge 30E B.M.
BINGHAM County		

Place of Use

IRRIGATION Within BINGHAM County

T05S R30E S25	NESW	38.00	T05S R30E S25	NWSW	34.00
T05S R30E S25	SWSW	26.00	T05S R30E S25	SESW	35.00
T05S R30E S25	NESE	40.00	T05S R30E S25	NWSE	40.00
T05S R30E S25	SWSE	40.00	T05S R30E S25	SESE	34.00

Total Acres: 287

STOCKWATER Within BINGHAM County

T05S R30E S25 SESE