

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

Transfer No. 80670

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

RECEIVEDName of Applicant(s) Pancheri Brothers LLC & Pancheri IncPhone 208-339-1295Mailing address 1494 Hwy 22 Howe Idaho 83244

Email _____

FEB 09 2016
Department of Water Resources
Eastern Region

- ☐ 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.


Signature of Applicant or Authorized Representative

Rod Pancheri Partner
Print Name and Title if applicable

2-6-16
Date

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 Ownership Change/Split
- 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. The applicant proposes to split and move a portion of two ground water rights that were recently purchased

80670

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 ☐ ☒	33-2040	0.31 cfs	Irrigation	4/1 to 11/01	Ground Water
☐ ☒	33-14904	0.16 cfs	Irrigation	4/15 to 10/15	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.47 cfs and/or 85.8 acre-feet.2. Total amount of water proposed to be transferred or changed 0.47 cubic feet per second and/or 85.8 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 #
N		NW	SE	SE	12	07N	27E	Butte	Ground Water	

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	
07N	27E	12													3.0	1.2	2.4	4.5	11.1
		13	0.3																0.3
07N	28E	7									4.4	8.7							13.1
											L3	L4							
Total Acres (for irrigation use)																			24.5



Bob Pouch

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 ☐ ☒	33-14904	0.85 cfs	Irrigation	04/01 to 11/01	Ground Water
☐ ☐		0.16 cfs	Irrigation	04/01 to 11/01	Ground Water
☐ ☒	33-2040	1.69 cfs	Irrigation	04/01 to 11/01	Ground Water
☐ ☐		0.31 cfs	Irrigation	04/01 to 11/01	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.01 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 0.47 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 #
N		NW	SE	SE	12	07N	27E	BUTTE	GROUND WATER	

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	
07N	27E	12													3	1.2	2.4	4.5	11.1
07N	27E	13	0.3																0.3
07N	28E	7									4.4	8.7							13.1
	GOV	LOT									3	4							

Total Acres (for irrigation use) 24.5

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: Pump to mainline to pivot

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

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

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

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

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

The existing place of use will be dried up and the acres moved to the new place of use

- 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:

The portion transfered will be used in conjunction with 33-69, 33-70, 33-71, 33-72, 33-73, 33-74, 33-76, 33-78, 33-79, 33-80, 33-81, 33-82, 33-2057, 33-2083, 33-2086, 33-2091, and 33-7018.

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

Yes No

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

If yes, describe:

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

Current Water Right No.: 33-14904

Current Owner: MERLIN SMITH SR

Priority Date: 4/11/1973

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	04/15 to 10/15	1.01 CFS	
	<u>Total Diversion</u>	1.01 CFS	

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4SW1/4	Sec. 26,	Twp 06N,	Rge 29E B.M.
BUTTE County				
GROUND WATER	NW1/4NW1/4SE1/4	Sec. 27,	Twp 06N,	Rge 29E B.M.
BUTTE County				

Place of Use

IRRIGATION Within BUTTE County

T06N R29E S27	NESE	39.00	T06N R29E S27	NWSE	40.00
T06N R29E S27	SWSE	39.00	T06N R29E S27	SESE	38.00

Total Acres: 156

Page _____ of _____

Conditions of Approval:

1. RIGHT NO. 33-07016 IS ALSO DIVERTED THROUGH THE SECTION 27 POINT OF DIVERSION DESCRIBED ABOVE.
RIGHT NO. 33-02040 IS ALSO DIVERTED THROUGH THE SECTION 26 POINT OF DIVERSION DESCRIBED ABOVE.
2. USE OF THIS RIGHT WITH RIGHT NO. 33-02040 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 156 ACRES IN A SINGLE IRRIGATION SEASON.
3. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER OCTOBER 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.
4. 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.

Decreed Date: 8/11/2000

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

Current Water Right No.: 33-2040

Current Owner: MERLIN SMITH SR

Priority Date: 3/24/1948

Origin: Water Right

Status: Active

Basis:	Decreed
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Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversion Rate

Annual Volume

IRRIGATION

04/01 to 11/01

2 CFS

Total Diversion

2 CFS

Location of Point(s) of Diversion

GROUND WATER

NW1/4NW1/4SE1/4

Sec. 27, Twp 06N, Rge 29E B.M.

BUTTE County

Place of Use

IRRIGATION Within BUTTE County

T06N R29E S27

NESE

39.00

T06N R29E S27

NWSE

40.00

T06N R29E S27

SWSE

11.00

T06N R29E S27

SESE

30.00

Total Acres: 120

Conditions of Approval:

1. USE OF THIS RIGHT WITH RIGHT NO. 33-14904 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.01 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 546 AF.
2. 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.
3. USE OF THIS RIGHT WITH RIGHT NO. 33-14904 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 158 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 120 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
4. RIGHT NO. 33-14904 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

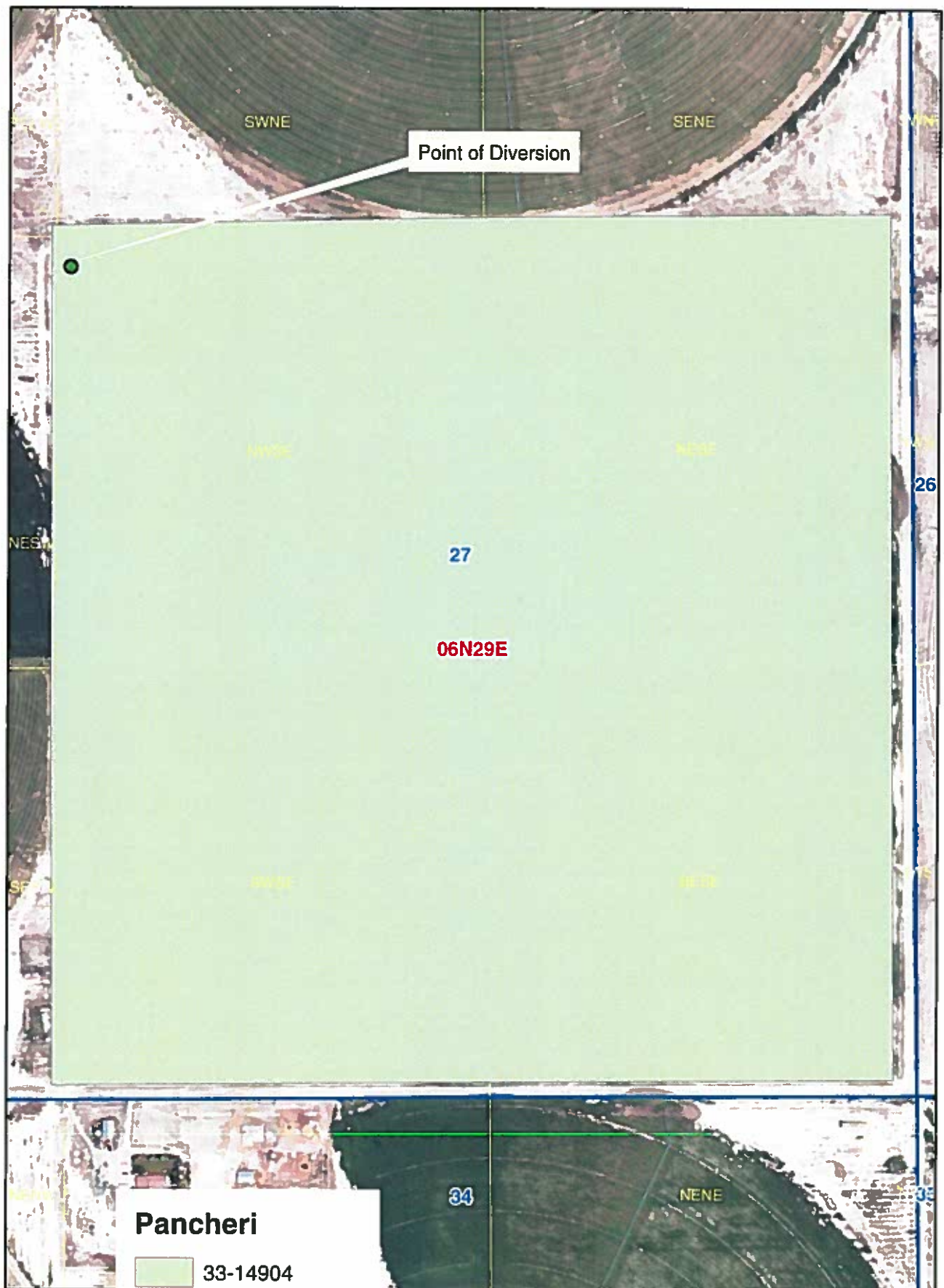
Decreed Date: 8/11/2000

80670

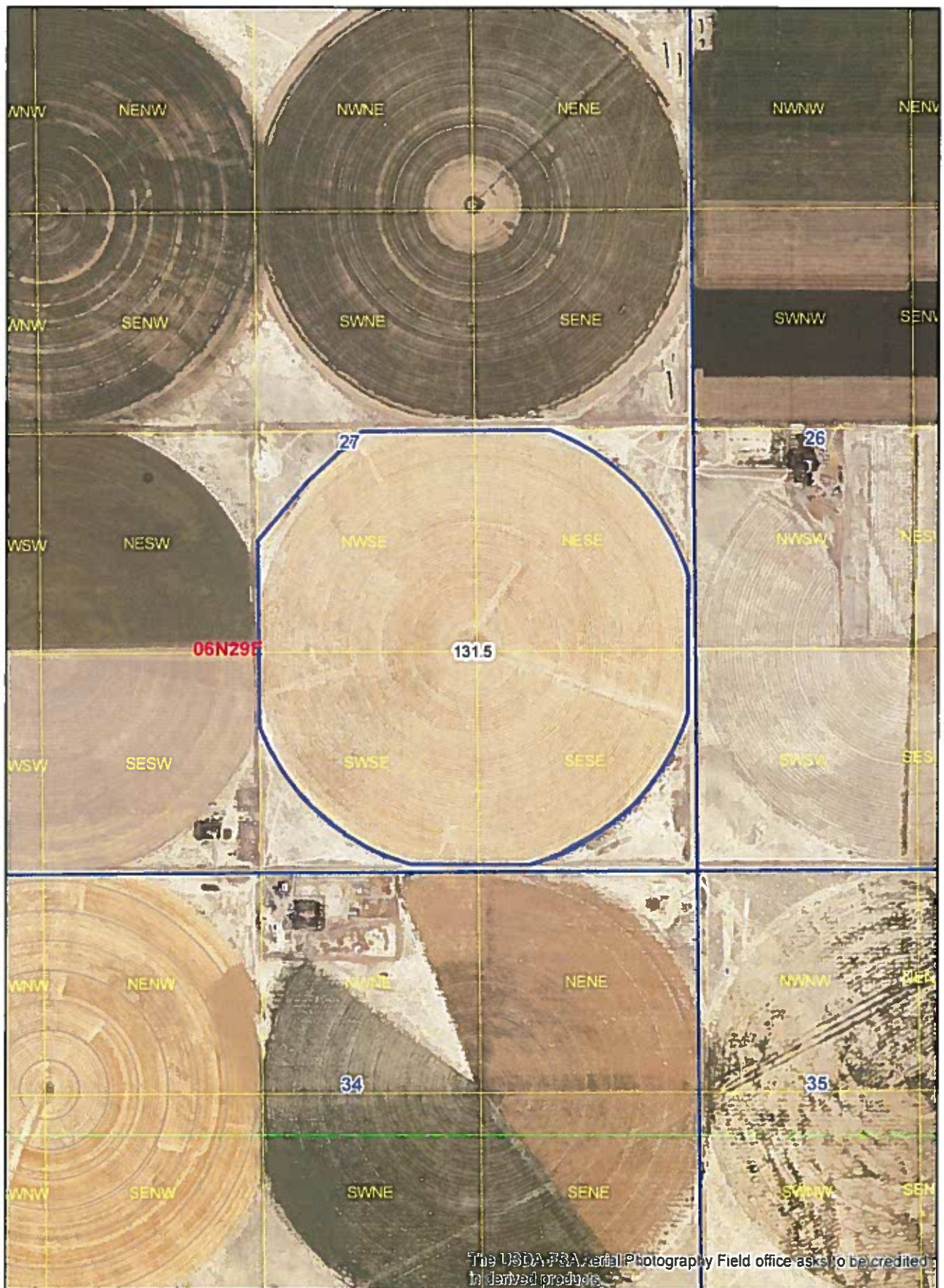
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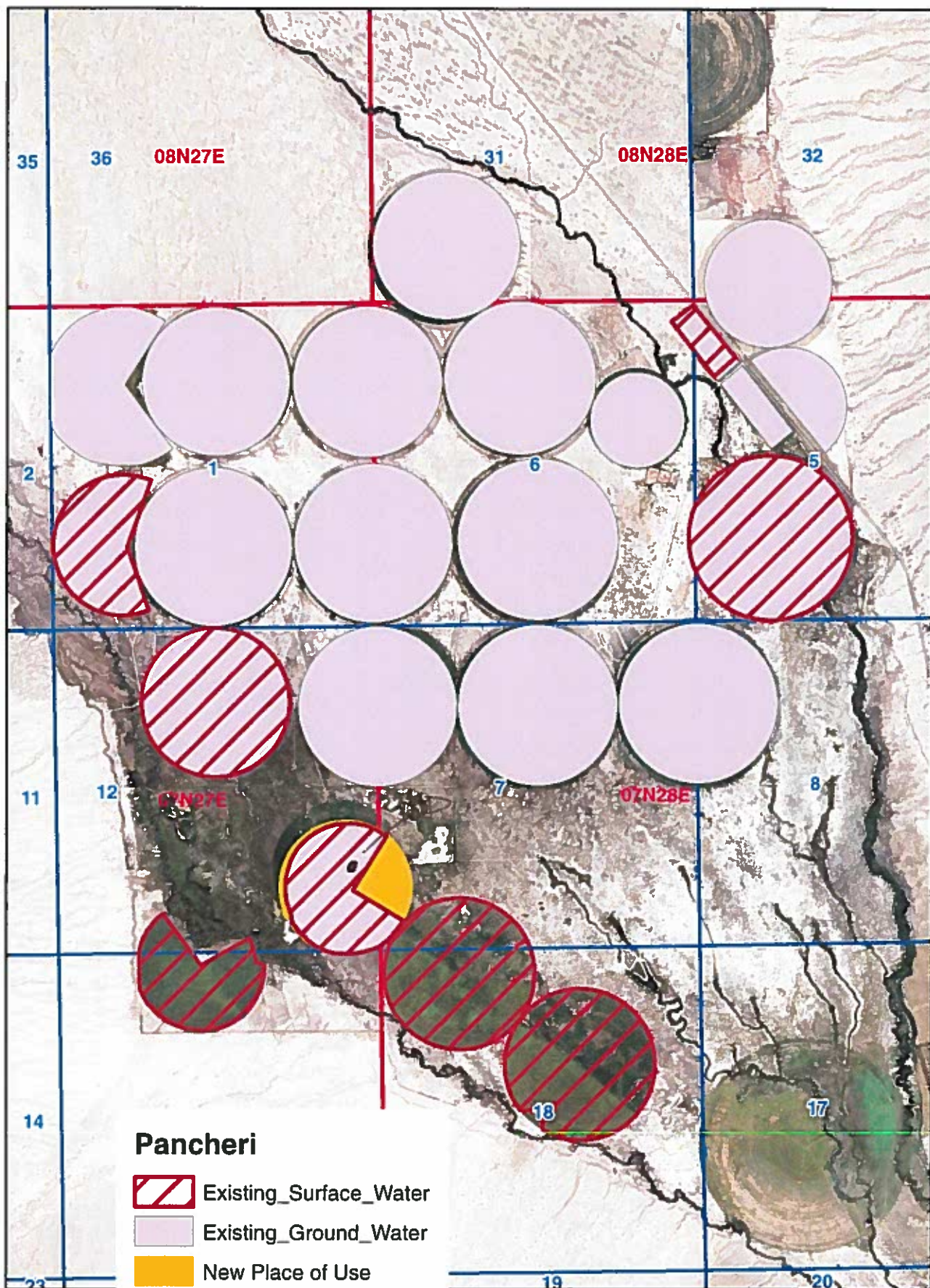


Existing Place of Use



Place of Use 33-14904 & 33-2040

80670



RECEIVED

FEB 12 2016

Department of Water Resources
Eastern Region

NO. 0052288

RECORDED

RECORDING REQUESTED BY:
Baker & Harris

Blackfoot, ID 83221

529028

11:32 A.M.
BUTTE COUNTY RECORDER

space above this line for Recording use only

WARRANTY DEED

For Value Received. MERLIN SMITH, SR., a married man dealing with his sole and separate property, the Grantor, does hereby grant, bargain, sell, and convey unto PANCHERI BROTHERS, LLC, an Idaho Limited Liability Company, of 1460 Highway 33, Howe, Idaho, 83244, the Grantee, the following-described premises, located in Butte County, Idaho, to-wit:

Township 6 North, Range 29 E.B.M., Butte County, Idaho
section 27: SE1/4, Except County Road.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

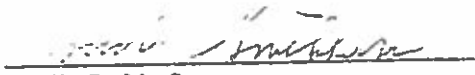
Together with all pumps, panels, mainline, and all other irrigation equipment of any nature owned by Grantor and located on the above-described premises.

Subject to all existing rights-of-ways for public highways, protective covenants, utility lines, existing roadways, irrigation ditches and all building, zoning and other restrictions of use and all encumbrances of record.

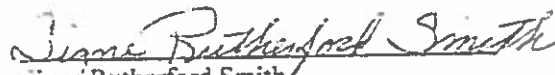
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said GRANTEE, its successors and assigns forever. This conveyance includes any and all water rights appurtenant to said premises, including but not limited to Water Right No. 33-2040 and Water Right No. 33-14904. The said Grantor does hereby covenant to and with the said Grantee, that he is the owners in fee simple of said premises; that said premises are free from all encumbrances except as hereinabove set forth and that he will warrant and defend the same from

all lawful claims whatsoever

DATED this 27 day of January, 2015.


Merlin Smith, Sr.

The undersigned spouse of Merlin Smith, Sr. acknowledges and agrees that the property described in the foregoing Warranty Deed is the sole and separate property of Merlin Smith, Sr. In the event the undersigned has any community property interest or other interest in such property, such interest shall be subject to the terms of the foregoing Warranty Deed and shall be transferred and conveyed to the above named Grantee in accordance with the terms and conditions of the foregoing Warranty Deed.

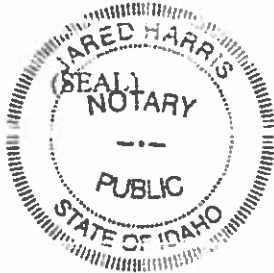

Signe Rutherford Smith

STATE OF IDAHO)

County of Bingham)

On this 23rd day of January, 2015, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared MERLIN SMITH, Sr., and SIGNE RUTHERFORD SMITH, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, the day and year first above written.



Jared Harris
Notary Public for Idaho

Residing at: Blackfoot

My Commission Expires: 2/23/17



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 24, 2016

PANCHERI INC
PANCHERI BROTHERS LLC
1494 HWY 33
HOWE, ID 83244

RE: Transfer No. 80670
Water Right No(s). 33-14904, 33-2040

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 ARCO ADVERTISER on 3/3/2016 and 3/10/2016. 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,

Judea Jones
Administrative Assistant



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 23, 2016

David Andreason
Watermaster 33
PO Box 31
Howe, ID 83244

RE: Applications for Transfer 80670

Dear Watermaster:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered during regional review. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Please contact this office if you have any questions regarding the application.

Sincerely,

Judea Jones
Administrative Assistant

Enclosure(s)

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No.: 80670

Applicant's Name: Pancheri

Watermaster's Recommendation:

- a) ☐ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as follows:

c) ☐ I oppose approval of this application for the following reasons:

d) ☐ Additional Comment:

Dated this _____ day of _____, 20____.

Water District No: 33

Watermaster's Signature

Cox, Sharla

From: Cox, Sharla
Sent: Wednesday, February 24, 2016 2:38 PM
To: 'Arco Advertiser (arcoadv@aol.com)'
Subject: Legal Notice for Your Paper
Attachments: Arco Advertiser E-Mail.doc

Contacts: Arco Advertiser

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 80670

PANCHERI INC and PANCHERI BROTHERS LLC, 1494 HWY 33, HOWE, ID 83244; has filed Application No. 80670 for changes to the following water rights within BUTTE County(s): Right No(s). 33-14904, 33-2040; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows:

Change the point of diversion and change the place of use. The point of diversion is in the NWSESE of Sec 12, T7N R27E for 0.47 cfs from ground water. The place of use is within the SE quarter of Sec 12, the NENE of Sec 13, T7N 27E, and lots 3 and 4 of Sec 7, T7N R28E for 24.5 acres.

For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before 3/21/2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 3/3/2016 and 3/10/2016