

RECEIVED

MAR 06 2014

Rev. 07/11

DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 79190**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 <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.
- ☐ ☒ #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 <http://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.
- ☐ ☒ #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 Other. Please describe: _____

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 79190

MAR 06 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Sun Valley Company, a Wyoming corporation Phone (208) 622-4111Mailing address P.O. Box 10; Sun Valley, Idaho 83353 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 RepresentativeName of Representative Scott Campbell, Moffatt Thomas Barrett Rock & Fields, Chtd. Phone (208) 345-2000Mailing address P.O. Box 829, Boise, ID 83701-0829 Email slc@moffatt.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

Timothy Silva VP/Governing Mgr.
 Print Name and Title if applicable

1-29-14
 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 Change Irrigation PPU Boundary

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**. Change irrigation PPU boundary to include new gun club, new golf course, and other areas to irrigate at Sun Valley Resort and to exclude areas irrigated from other sources. New gun club and golf course areas are currently irrigated with leased water, rented back from the water bank. POU boundary for Wildlife and Aesthetic use under these rights and 37-22105, 37-22106 to remain the same.

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 ☒ ☐	37-415	17.6 cfs/ ---	Irrigation	4/15 to 10/31	Trail Creek
☒ ☐	37-415	7.4 cfs/ ---	Wildlife/Aesthetic	4/15 to 10/31	Trail Creek
☒ ☐	37-416	4.6 cfs/ ---	Irrigation	4/15 to 10/31	Trail Creek
☒ ☐	37-416	1.9 cfs/ ---	Wildlife/Aesthetic	4/15 to 10/31	Trail Creek
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 31.5 cfs and/or --- ac-ft

2. Total amount of water proposed to be transferred or changed 22.2 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	
4N	18E	5		13			27		15	20	13	32	31	12					163
4N	18E	6									9.4			11	9.4	3.4	17	36	86.2
4N	18E	7	38	9.8	33	32	22		0.2	8.7	9.6			21	13	24	24	2.5	237.8
4N	18E	8					11	23	9.3			0.2							43.5
4N	18E	18		0.6			13												13.6
5N	18E	32												6.9	4.2		25	27	63.1

Note: No proposed changes to the Wildlife and Aesthetic Place of Use.
Wildlife and Aesthetic Place of Use will remain as decreed.

Total Acres (for irrigation use) PPU = 607.2 ac
(limited to irrigation of 529.2 acres)

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 diversion structure consists of a measuring device and diversion works that can be locked by the Watermaster.

Irrigation System consists of ditches, ponds, pumps, and/or sprinklers.

- 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. 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: NA

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:

It is proposed to change the Permissible Place of Use boundary. This transfer does not propose a change to the Nature 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:

None

- 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:

All water rights were partially decreed in the SRBA on 12/1/2010. Pursuant to Wood v. Troutt and IDWR orders in Hofer (transfer 69688) and Salmon Falls (transfer 5464), the forfeiture period runs anew from that date. Portions of the irrigation use have been leased to the water bank to be rented out and used on irrigated areas outside of the current PPU through 2016. This transfer will eliminate the need to continue leasing and renting water from the water bank.

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

Current Water Right No.: 37-415

Current Owner: SUN VALLEY CO A WYOMING CORP

Priority Date: 4/25/1881

Origin: Water Right

Status: Water Supply Bank Active

Basis: Decreed

Source

TRAIL CREEK

Tributary

BIG WOOD RIVER

Beneficial Use

From To

Diversions Rate

Annual Volume

WILDLIFE	04/15 to 10/31
IRRIGATION	04/15 to 10/31
AESTHETIC	04/15 to 10/31
Total Diversions	

7.4 CFS
17.6 CFS
7.4 CFS
25 CFS

Location of Point(s) of Diversion

TRAIL CREEK

NE1/4NW1/4

Sec. 5, Twp 04N, Rge 18E B.M.

BLAINE County

TRAIL CREEK

NE1/4SE1/4

Sec. 32, Twp 05N, Rge 18E B.M.

BLAINE County

Place of Use

WILDLIFE Within BLAINE County

T04N R18E S5	Lot 2	NWNE
T04N R18E S5		SWNW
T04N R18E S5		NESW
T04N R18E S5		SWSW
T04N R18E S6		NESE
T04N R18E S7		NENE
T04N R18E S7		SWNE
T04N R18E S7		SENW
T04N R18E S7		SESW
T04N R18E S7		NWSE
T04N R18E S7		SESE
T04N R18E S8		NWNW
T04N R18E S8		SENW
T04N R18E S18		NWNE
T05N R18E S32		NESE
T05N R18E S32	Lot 1	SESE

T04N R18E S5	Lot 3	NENW
T04N R18E S5		SENW
T04N R18E S5		NWSW
T04N R18E S5		SESW
T04N R18E S6		SESE
T04N R18E S7		NWNE
T04N R18E S7		SENE
T04N R18E S7		NESW
T04N R18E S7		NESE
T04N R18E S7		SWSE
T04N R18E S8		NENW
T04N R18E S8		SWNW
T04N R18E S8		NWSW
T04N R18E S18	Lot 1	NENW
T05N R18E S32	Lot 2	SWSE

IRRIGATION Within BLAINE County

T04N R18E S5	Lot 2	NWNE	13.00	T04N R18E S5	Lot 3	NENW	12.00
T04N R18E S5		SWNW	1.80	T04N R18E S5		SENW	31.00
T04N R18E S5		NESW	22.00	T04N R18E S5		NWSW	31.00
T04N R18E S5		SWSW	39.00	T04N R18E S5		SESW	20.00
T04N R18E S6		NESE	2.20	T04N R18E S6		SESE	32.00
T04N R18E S7		NENE	37.00	T04N R18E S7		NWNE	6.00
T04N R18E S7		SWNE	35.00	T04N R18E S7		SENE	39.00
T04N R18E S7		SENW	2.00	T04N R18E S7		NESW	9.20
T04N R18E S7		SESW	17.00	T04N R18E S7		NESE	37.00
T04N R18E S7		NWSE	40.00	T04N R18E S7		SWSE	35.00
T04N R18E S7		SESE	15.00	T04N R18E S8		NENW	16.00
T04N R18E S8		NWNW	39.00	T04N R18E S8		SWNW	36.00
T04N R18E S8		SENW	1.10	T04N R18E S8		NWSW	8.00
T04N R18E S18		NWNE	8.40	T04N R18E S18	Lot 1	NENW	19.00
T05N R18E S32		NESE	1.90	T05N R18E S32	Lot 2	SWSE	12.00
T05N R18E S32	Lot 1	SESE	11.00				

Total Acres: 628.6

AESTHETIC Within BLAINE County

T04N R18E S5	Lot 2	NWNE		T04N R18E S5	Lot 3	NENW	
T04N R18E S5		SWNW		T04N R18E S5		SENW	
T04N R18E S5		NESW		T04N R18E S5		NWSW	
T04N R18E S5		SWSW		T04N R18E S5		SESW	
T04N R18E S6		NESE		T04N R18E S6		SESE	
T04N R18E S7		NENE		T04N R18E S7		NWNE	
T04N R18E S7		SWNE		T04N R18E S7		SENE	
T04N R18E S7		SENW		T04N R18E S7		NESW	
T04N R18E S7		SESW		T04N R18E S7		NESE	
T04N R18E S7		NWSE		T04N R18E S7		SWSE	
T04N R18E S7		SESE		T04N R18E S8		NENW	
T04N R18E S8		NWNW		T04N R18E S8		SWNW	
T04N R18E S8		SENW		T04N R18E S8		NWSW	
T04N R18E S18		NWNE		T04N R18E S18	Lot 1	NENW	
T05N R18E S32		NESE		T05N R18E S32	Lot 2	SWSE	
T05N R18E S32	Lot 1	SESE					

Conditions of Approval:

1. RD4 Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. R01 A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
3. X27 This right is limited to the irrigation of 516.3 acres within the place of use described above in a single irrigation season.
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.
5. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Decreed Date: 12/1/2010

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

Current Water Right No.: 37-416

Current Owner: SUN VALLEY CO A WYOMING CORP

Priority Date: 10/5/1883

Origin: Water Right

Status: Active

Basis: Decreed

Source

TRAIL CREEK

Tributary

BIG WOOD RIVER

Beneficial Use

From To

Diversion Rate

Annual Volume

AESTHETIC	04/15 to 10/31
WILDLIFE	04/15 to 10/31
IRRIGATION	04/15 to 10/31
<u>Total Diversion</u>	

1.9 CFS
1.9 CFS
4.6 CFS
6.5 CFS

Location of Point(s) of Diversion

TRAIL CREEK

NE1/4NW1/4

Sec. 5, Twp 04N, Rge 18E B.M.

BLAINE County

TRAIL CREEK

NE1/4SE1/4

Sec. 32, Twp 05N, Rge 18E B.M.

BLAINE County

Place of Use

AESTHETIC Within BLAINE County

T04N R18E S5	Lot 2	NWNE
T04N R18E S5		SWNW
T04N R18E S5		NESW
T04N R18E S5		SWSW
T04N R18E S6		NESE
T04N R18E S7		NENE
T04N R18E S7		SWNE
T04N R18E S7		SENW
T04N R18E S7		SESW
T04N R18E S7		NWSE
T04N R18E S7		SESE
T04N R18E S8		NWNW
T04N R18E S8		SENW
T04N R18E S18		NWNE
T05N R18E S32		NESE
T05N R18E S32	Lot 1	SESE

T04N R18E S5	Lot 3	NENW
T04N R18E S5		SENW
T04N R18E S5		NWSW
T04N R18E S5		SESW
T04N R18E S6		SESE
T04N R18E S7		NWNE
T04N R18E S7		SENE
T04N R18E S7		NESW
T04N R18E S7		NESE
T04N R18E S7		SWSE
T04N R18E S8		NENW
T04N R18E S8		SWNW
T04N R18E S8		NWSW
T04N R18E S18	Lot 1	NENW
T05N R18E S32	Lot 2	SWSE

WILDLIFE Within BLAINE County

T04N R18E S5	Lot 2	NWNE	T04N R18E S5	Lot 3	NENW
T04N R18E S5		SWNW	T04N R18E S5		SENW
T04N R18E S5		NESW	T04N R18E S5		NWSW
T04N R18E S5		SWSW	T04N R18E S5		SESW
T04N R18E S6		NESE	T04N R18E S6		SESE
T04N R18E S7		NENE	T04N R18E S7		NWNE
T04N R18E S7		SWNE	T04N R18E S7		SENE
T04N R18E S7		SENW	T04N R18E S7		NESW
T04N R18E S7		SESW	T04N R18E S7		NESE
T04N R18E S7		NWSE	T04N R18E S7		SWSE
T04N R18E S7		SESE	T04N R18E S8		NENW
T04N R18E S8		NWNW	T04N R18E S8		SWNW
T04N R18E S8		SENW	T04N R18E S8		NWSW
T04N R18E S18		NWNE	T04N R18E S18	Lot 1	NENW
T05N R18E S32		NESE	T05N R18E S32	Lot 2	SWSE
T05N R18E S32	Lot 1	SESE			

IRRIGATION Within BLAINE County

T04N R18E S5	Lot 2	NWNE	13.00	T04N R18E S5	Lot 3	NENW	12.00
T04N R18E S5		SWNW	1.80	T04N R18E S5		SENW	31.00
T04N R18E S5		NESW	22.00	T04N R18E S5		NWSW	31.00
T04N R18E S5		SWSW	39.00	T04N R18E S5		SESW	20.00
T04N R18E S6		NESE	2.20	T04N R18E S6		SESE	32.00
T04N R18E S7		NENE	37.00	T04N R18E S7		NWNE	6.00
T04N R18E S7		SWNE	35.00	T04N R18E S7		SENE	39.00
T04N R18E S7		SENW	2.00	T04N R18E S7		NESW	9.20
T04N R18E S7		SESW	17.00	T04N R18E S7		NESE	37.00
T04N R18E S7		NWSE	40.00	T04N R18E S7		SWSE	35.00
T04N R18E S7		SESE	15.00	T04N R18E S8		NENW	16.00
T04N R18E S8		NWNW	39.00	T04N R18E S8		SWNW	36.00
T04N R18E S8		SENW	1.10	T04N R18E S8		NWSW	8.00
T04N R18E S18		NWNE	8.40	T04N R18E S18	Lot 1	NENW	19.00
T05N R18E S32		NESE	1.90	T05N R18E S32	Lot 2	SWSE	12.00
T05N R18E S32	Lot 1	SESE	11.00				

Total Acres: 628.6

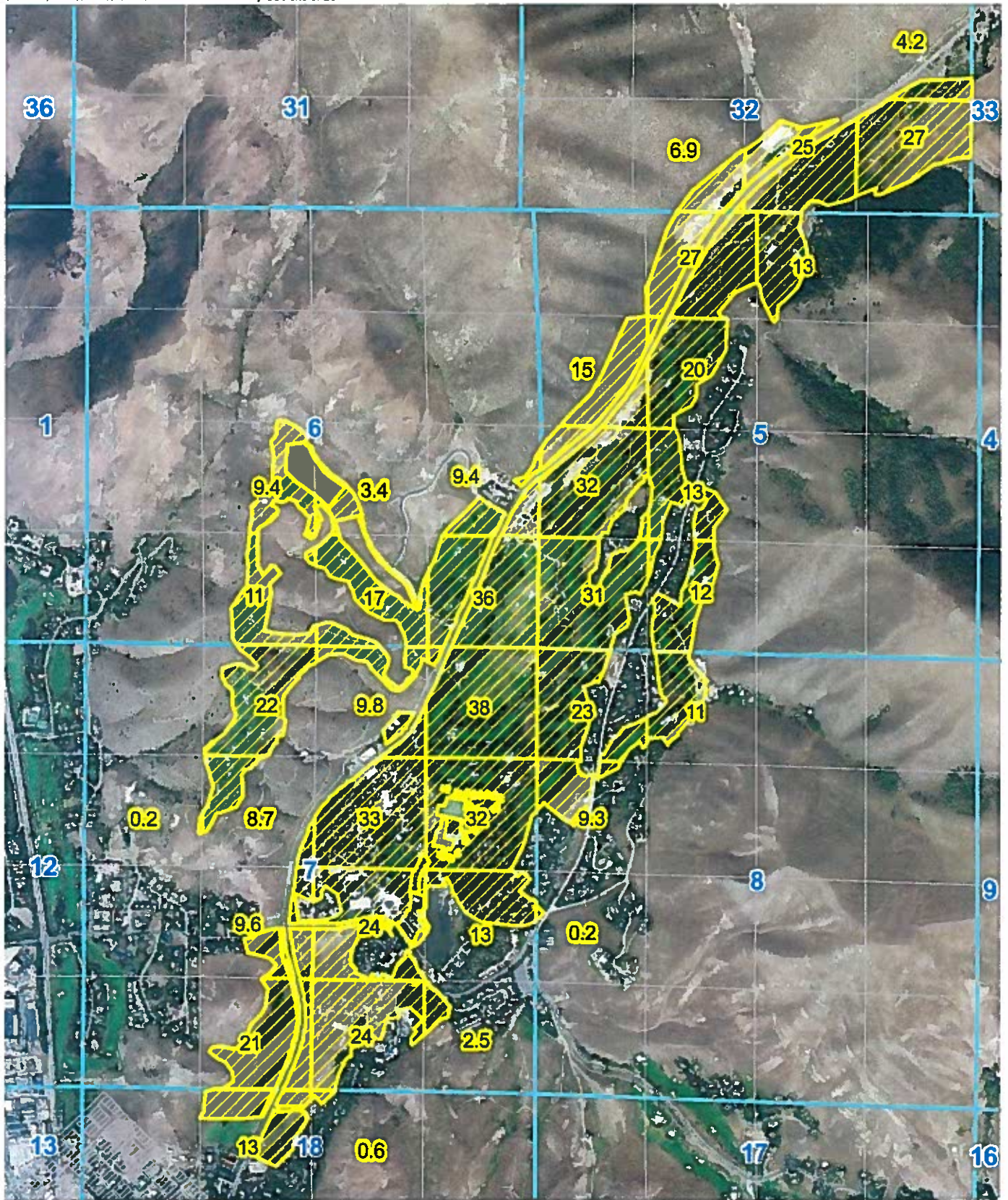
Conditions of Approval:

1. X27 This right is limited to the irrigation of 12.9 acres within the place of use described above in a single irrigation season.
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. C04 Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Decreed Date: 12/1/2010

Total Acres (for irrigation use)

Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____



0 0.125 0.25 0.5 Miles

**SUN VALLEY COMPANY
PPU MAP FOR TRANSFER
NAIP 2013 AERIAL PHOTOGRAPH**

Legend
PPU Boundary by OG

BROCKWAY ENGINEERING, PLLC.
GEP - JAN. 16, 2014





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

SUN VALLEY CO, A WYOMING CORP
PO BOX 10
SUN VALLEY, ID 83353

RE: Transfer No. 79190
Water Right No(s). 37-415, 37-416

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 **IDAHO MOUNTAIN EXPRESS** on 4/30/2014 and 5/7/2014, and the **IDAHO STATESMAN, LEWISTON TRIBUNE, POST REGISTER, & TIMES NEWS** on 5/1/2014 and 5/8/2014. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**May 19, 2014**).

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,

Denise Maline
Administrative Assistant

cc: MOFFATT THOMAS BARRETT ROCK & FIELD CHTD
C/O SCOTT L CAMPBELL
PO BOX 829
BOISE, ID 83701-0829

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 10:02 AM
To: Idaho Mountain Express
Subject: LEGAL NOTICE
Attachments: Idaho Mountain Express Cover Letter.docx; 79190 Ad.docx

Attached please find (1) legal notice being submitted for publication on April 30th & May 7th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

LEGAL NOTICE DEPARTMENT
IDAHO MOUNTAIN EXPRESS
PO BOX 1013
KETCHUM, ID 83340

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

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 May 19, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79190**

SUN VALLEY CO, A WYOMING CORP, PO BOX 10, SUN VALLEY, ID 83353; has filed Application No. 79190 for changes to the following water rights within BLAINE County(s): Right No(s). 37-415, 37-416. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before May 19, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Idaho Mountain Express on April 30th & May 7th; and the Times News, Idaho Statesman, Post Register and Lewiston Tribune on May 1st & 8th, 2014.

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 9:59 AM
To: Times News
Subject: LEGAL NOTICE
Attachments: Times News Cover Letter.docx; Times News Ad.docx

Attached please find (1) legal notice being submitted for publication on May 1st & 8th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Application For Permit No.(s): 45-14456

RE: Transfer No. 79202
Water Right No(s): 36-8478

RE: Transfer No. 79270
Water Right No(s): 45-14376, 45-2625, 45-7021

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

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 May 19, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

45-14456

ALBION 12 INVESTMENTS LLC

7595 EAST MCDONALD DR #130

SCOTTSDALE, AZ 85250

Point of Diversion SWSEW S21 T12S R25E CASSIA County Source HOWELL CREEK Tributary MARSH CREEK

Use: GROUND WATER RECHARGE

01/01 to 12/31 2 CFS

Total Diversion: 2 CFS

Date Filed: 4/7/2014

Place Of Use: GROUND WATER RECHARGE

T12S R25E S21 SWNW SENW

Application intends to divert 2.00 cfs from Howell Creek for the purpose of groundwater recharge from a point of diversion located approximately 1.7 miles east and 3.27 miles south of Albion, Idaho. The water will be diverted into constructed recharge basins located approximately 1.4 to 1.83 miles east, and 3.2 to 3.28 miles south of Albion.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 79202

TSK ENTERPRISES LLC, C/O GARY FUNDERBERG, 255 BLUE LAKES BLVD PMB 617, TWIN FALLS, ID 83301; has filed Application No. 79202 for changes to the following water rights within JEROME County(s): Right No(s). 36-8478. The purpose of the transfer is to change a portion of the above rights as follows: This application intends to change the place of use, period of use, point of diversion, and nature of use for a 0.06 cfs portion of water right 36-8478. The right is currently used for year round stockwater and commercial use at a dairy, located approximately 3.0 to 3.5 miles south and 2.5 to 3.0 miles west of the center of Jerome. The application proposes changing the use to irrigation (period of use from 3/15 to 11/15) with a proposed place of use and new point of diversion (an existing well) located approximately 4.0 miles south and 1.3 miles west of the center of Jerome.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 79270

SIX S RANCH LLC, 1354 E SIX S RANCH RD, DECLO, ID 83323; has filed Application No. 79270 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14376, 45-2625, 45-7021. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding two new points of diversion to three groundwater rights used to irrigate up to 770.8 acres on the main Six S Ranch property located east of Declo. The new points of diversion will consist of two new wells to be drilled with both of the wells being located approximately 5.1 miles east of the 100 South and Highway 77 intersection in Declo. The application indicates that no more than 2.23 cfs will be diverted from the two new wells.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 79190

SUN VALLEY CO, A WYOMING CORP, PO BOX 10, SUN VALLEY, ID 83353; has filed Application No. 79190 for changes to the following water rights within BLAINE County(s): Right No(s). 37-415, 37-416. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions. Published in the Idaho Mountain Express on April 30th & May 7th; and the Times News, Idaho Statesman, Post Register and Lewiston Tribune on May 1st & 8th, 2014.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before May 19, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on May 1st & 8th, 2014

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 10:05 AM
To: Idaho Statesman
Subject: LEGAL NOTICE
Attachments: Idaho Statesman Cover Letter.docx; 79190 Ad.docx

Attached please find (1) legal notice being submitted for publication on May 1st & 8th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

LEGAL NOTICE DEPARTMENT
IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

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 May 19, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79190**

SUN VALLEY CO, A WYOMING CORP, PO BOX 10, SUN VALLEY, ID 83353; has filed Application No. 79190 for changes to the following water rights within BLAINE County(s): Right No(s). 37-415, 37-416. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before May 19, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Idaho Mountain Express on April 30th & May 7th; and the Times News, Idaho Statesman, Post Register and Lewiston Tribune on May 1st & 8th, 2014.

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 10:06 AM
To: Post Register
Subject: LEGAL NOTICE
Attachments: Post Register Cover Letter.docx; 79190 Ad.docx

Attached please find (1) legal notice being submitted for publication on May 1st & 8th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

LEGAL NOTICE DEPARTMENT
POST REGISTER
PO BOX 1800
IDAHO FALLS, ID 83402

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

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 May 19, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79190**

SUN VALLEY CO, A WYOMING CORP, PO BOX 10, SUN VALLEY, ID 83353; has filed Application No. 79190 for changes to the following water rights within BLAINE County(s): Right No(s). 37-415, 37-416. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before May 19, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Idaho Mountain Express on April 30th & May 7th; and the Times News, Idaho Statesman, Post Register and Lewiston Tribune on May 1st & 8th, 2014.

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 10:07 AM
To: Lewiston Tribune (legals@lmtribune.com)
Subject: LEGAL NOTICE
Attachments: Lewiston Tribune Cover Letter.docx; 79190 Ad.docx

Attached please find (1) legal notice being submitted for publication on May 1st & 8th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

LEGAL NOTICE DEPARTMENT
LEWISTON TRIBUNE
505 C ST
PO BOX 957
LEWISTON, ID 83501

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

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 May 19, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79190**

SUN VALLEY CO, A WYOMING CORP, PO BOX 10, SUN VALLEY, ID 83353; has filed Application No. 79190 for changes to the following water rights within BLAINE County(s): Right No(s). 37-415, 37-416. The purpose of the transfer is to change a portion of the above rights as follows: Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and the proposed transfers, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. 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, Southern Region, 650 Addison Ave W, Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before May 19, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published in the Idaho Mountain Express on April 30th & May 7th; and the Times News, Idaho Statesman, Post Register and Lewiston Tribune on May 1st & 8th, 2014.

Maline, Denise

From: Maline, Denise
Sent: Thursday, April 24, 2014 10:43 AM
To: 'Kevin Lakey'
Subject: Comment Letter for Transfer 79190
Attachments: Comment Letter to WM37.pdf; Transfer 79190.pdf

Dear Kevin,

Attached please find a cover letter, recommendation form, and a copy of Application for Transfer 79190. Please review the attached information and provide any necessary comments within 21 days. Feel free to contact our office if you have any questions.

Thank you in advance,

Denise Maline
Idaho Dept of Water Resources
Administrative Assistant, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

KEVIN LAKEY
WATER DISTRICT #37
107 W 1ST
SHOSHONE, ID 83352

Via E-mail

RE: Transfer No. 79190
Water Right No(s): 37-415, 37-416

Dear Mr. Lakey:

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

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

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. 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.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 24, 2014

IDAHO DEPT OF FISH & GAME
324 S 417 E, STE 1
JEROME, ID 83338

RE: Transfer No. 79190
Water Right No(s). 37-415, 37-416

RE: Application for Permit No. 45-14456

Dear Fish & Game:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference. Please review the application, complete the enclosed recommendation form, and submit it to this office within 21 days.

The Department can publish notice of the application as soon as the initial review is completed. Therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application, or you may visit our website at www.idwr.idaho.gov.

Sincerely,

Denise Maline
Southern Region

Enclosure(s)

MEMORANDUM

Date: Apr. 14, 2014
To: Transfer 79190 File, Sun Valley Company
From: Douglas Jones
Re: Evaluation of Sufficiency of Information Submitted

Transfer proposes to change the place of use for irrigation use of water rights 37-415 and 37-416 from subdivided and developed lands of the original farm and resort to new irrigation of recent golf course development on the ridge west of Trail Creek. The rights were decreed for 22.2 cfs and 516.3 acres of irrigation along with 9.3 cfs of water for aesthetic and wildlife use within a 628.6 acre area that included Sun Valley Resort lands and some or all of approximately 17 subdivisions, including but not limited to the various Fairway, Prospector, Trail Creek, East Lake Subdivisions and New Villager, Dollar Meadows and Cottonwood Condominiums. The proposed 516.3 acre irrigation place of use are part of Sun Valley Resort, northeast of Ketchum along Trail Creek, but also include some of the above subdivisions and additional other lots, condominium areas and subdivisions.

- **Authority to File:**
The applicant is listed as the current owner of involved water rights (37-415 and 37-416) according to IDWR records. However, lands proposed to be dried up are owned by others. Clear title to appurtenances is absent.
- **Water Right Validity:**
Both water rights have been decreed in the SRBA. Review of aerial photos from over the years show that the land being excluded from the Permissible Place of Use (PPU) were originally irrigated by the rights, then subdivided and developed over the decades. Lands involved, not in roadways and homes, with the transfer have recently been irrigated.
- **Injury to Other Water Rights:**
It is the apparent position of the applicant that the lands being irrigated are supplied water from another source and that they wish to move the surface water formerly used there for irrigation to other lands more recently developed. However, the applicant will continue to route surface water to the present PPU for aesthetic purposes under these same water rights. Unstacking the surface water and the current source for irrigation (presumably Sun Valley Water municipal supply) would result in an enlargement of total number of acres.
- **Enlargement of Use:**
See analysis on injury discussed above.
- **Local Public Interest:**
No hydrological impact anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.

Questions of ownership of land the rights are appurtenant to and issues of enlargement by unstacking rights to provide new irrigation require close attention on whether to deny, or approve with conditions, the application for transfer.

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Richard C. Fields
John S. Simko
John C. Ward
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Gerald T. Husch
Scott L. Campbell
Patricia M. Olsson
Christine F. Nicholas
Bradley J. Williams
Lee Rudford

Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGraham
David P. Gardner
Julian E. Gabiola
Kimberly D. Evans Ross
Jon A. Stenquist
Mark C. Peterson
Tyler J. Anderson
Andrew J. Waldera
Dylan B. Lawrence
C. Edward Cather III
Benjamin C. Ritchie

Matthew J. McGee
Mindy M. Willman
Jetta Hatch Mathews
Andrea J. Rosholt
Maria O. Hart
Kirk J. Houston

Norman M. Semanko, *of counsel*
Terri L. Ackerman, *of counsel*

Willis C. Moffatt, 1907-1980
Eugene C. Thomas, 1931-2010
John W. Barrett, 1931-2011
Kirk R. Helvie, 1956-2003

RECEIVED

MAR 06 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Boise
Idaho Falls
Pocatello

Mailing Address
PO Box 829
Boise ID 83701-0829

Physical Address
US Bank Plaza
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

February 24, 2014

Department of Water Resources-Southern
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Application for Transfer for Water Rights 37-00415 and 37-00416
Sun Valley Company
MTBR&F File No. 16845.0013

Dear Sir/Madam:

On behalf of the Sun Valley Company, I am enclosing with this letter a transfer application for water rights 37-00415 and 37-00416 and a check payable to IDWR in the amount of \$2,140.00 for the processing fee. ***In order to comply with the statutes governing transfer applications, please publish notice of this application immediately upon receipt.*** While I am aware this request will require IDWR to forego its pre-publication evaluation procedures described in Sections 5(4) through 5(7) of the Transfer Processing Memorandum No. 24 (Dec. 21, 2009) ("Transfer Memo"), I believe IDWR must comply with a request by a transfer applicant to forego those procedures. The remainder of this letter explains why.

In *Asarco Inc. v. State*, the Idaho Supreme Court identified six factors indicating that an agency action constitutes a "rule" under Idaho law:

- (1) wide coverage, (2) applied generally and uniformly, (3) operates only in future cases, (4) prescribes a legal standard or directive not otherwise provided by the enabling statute, (5) expresses agency policy not previously expressed, and (6) is an interpretation of law or general policy.

Id. at 138 Idaho 719, 723 (2003).

According to the Court, under Idaho administrative law, agency action that qualifies as a "rule" under these factors "must be promulgated in accordance with the [Idaho Administrative Procedures Act (APA)] in order to be valid." *Id.* at 723. Ultimately, in *Asarco*, the Court struck down as "void" and "invalid" a Total Maximum Daily Load (TMDL) established by the

Idaho DEQ for the Coeur d'Alene River Basin, because the agency did not follow the Idaho APA rulemaking procedures in adopting the TMDL. *Id.* at 725.

Based upon the six factors recognized by the Idaho Supreme Court in *Asarco*, the Transfer Memo clearly qualifies as a rule that must have been adopted through the rulemaking procedures of the Idaho APA. Indeed, the six factors apply with even more force to the Transfer Memo, because it applies statewide and is not limited in its geographic scope as was the TMDL in *Asarco*.

IDWR has never adopted the Transfer Memo through formal rulemaking procedures, even though it has clear statutory authority to do so. *See, e.g.,* IDAHO CODE § 42-1805(8). Therefore, any portions of the Transfer Memo which exceed the scope of simply summarizing existing law are “void” and “invalid” under *Asarco*. Because the water right transfer statute does not provide for IDWR’s evaluation of a transfer application prior to publication of notice, the pre-publication evaluation procedures in Sections 5(4) through 5(7) are “void” and “invalid,” and IDWR must therefore comply with a request by a transfer applicant to forego those procedures.

More specifically, Idaho Code Section 42-222(1) provides that,

Upon receipt of such [transfer] application it shall be the duty of the director of the department of water resources to examine same, obtain any consent required in section 42-108, Idaho Code, and if otherwise proper to provide notice of the proposed change in a similar manner as applications under section 42-203A, Idaho Code.

The enclosed application does not implicate canal company shares or irrigation district facilities and does not exceed the 50 cfs /5,000 AF thresholds. Therefore, no consents under Section 42-108 are required. And, there is certainly nothing “improper” about the application that would justify delaying its publication. To the contrary, the application is straightforward and provides sufficient detail for publication and processing by IDWR.

Upon receipt of the application, IDWR’s proper role is limited to a cursory completeness review of the application pursuant to Section 3 of the Transfer Memo, to confirm that it is “otherwise proper” to publish notice under Section 42-222(1). Unless there is some obvious, significant defect with the application, Section 42-222(1) requires IDWR to then proceed immediately to publication of notice. This requires IDWR to forego the pre-publication evaluation procedures in Sections 5(4)-5(7) of the Transfer Memo.

Sun Valley Company raises this issue because it is concerned about the delay that will result if IDWR adheres to the pre-publication procedures in the Transfer Memo. As I am sure you are aware, in *Idaho Power Co. v. Idaho Dept. of Water Resources*, 2011 Op. No. 63 (Ida. Sup. Ct., May 26, 2011), the Idaho Supreme Court affirmed IDWR’s inclusion of new restrictive conditions on a water right license that did not appear in the permit. In that case, Idaho Power

had fulfilled its statutory obligations under the permitting statutes when it submitted its proof of beneficial use to IDWR on August 7, 1980. IDWR did not issue the license until November 16, 2007. In the intervening period, legislation was enacted that provided IDWR with the claimed authority to insert the new restrictive conditions on the water right license. Therefore, in that case, a water right applicant was harmed, in part, by delay by IDWR. In response to Idaho Power's argument that the delay was unreasonable, the Idaho Supreme Court indicated that Idaho Power should have taken the rather drastic measure of filing a mandamus action "to compel action by the Department." *Idaho Power*, 2011 Op. No. 63, p. 15.

To be clear, I am not suggesting that I expect IDWR to delay publication of this transfer application for as long as it took to issue the license in the *Idaho Power* case. However, Sun Valley Company wants to avoid any prejudice caused by any delay of publication of notice of the application, and initiating a mandamus action against IDWR would be unnecessary and wasteful of resources for both parties. Therefore, Sun Valley Company requests that IDWR forego its pre-publication evaluation procedures in this particular case and proceed with publication of notice of the enclosed transfer application as soon as possible. Please inform me in writing when publication of the notice has occurred.

Thank you for your attention to this matter.

Very truly yours,



Scott L. Campbell

Enclosures

cc: Director Spackman
Tim Silva, Sun Valley Company