

RECEIVED

JUL 30 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78752
37-12000

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 <u>always required</u> 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 I. 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 <u>for each water right</u> for which <u>only a portion</u> 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 <u>not</u> 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. |
| ☐ | ☒ | #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). |
| ☐ | ☒ | #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/water/rights/ . |
| ☐ | ☒ | #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.) |
| ☐ | ☒ | #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: _____ |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 78752

RECEIVED

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APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

DEPT. OF WATER RESOURCES
Name of Applicant(s) Black Butte Hills LLC

Phone 425-460-2542

Mailing address PO Box 1607 Bellevue, WA 98009

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 of Brockway Engineering

Phone 208-736-8543

Mailing address 2016 North Washington Street, Suite 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

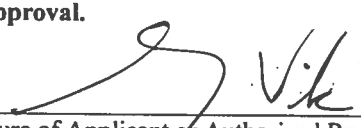
☒ Send original correspondence to the applicant and copies to the representative.

☐ 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.


Signature of Applicant or Authorized Representative

GREG VIK, PRESIDENT
Print Name and Title if applicable

7/26/13
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 the POU of 37-12000. Identify existing 15 ponds shown in attached aerial map as the location of storage.**

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 ☒ ☐	37-12000	/14.0	Stockwater Storage	1/01 to 12/31	Spring
☐ ☐		.02/	Diversion to Storage	1/01 to 12/31	Spring
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.02 cfs and/or 14.0 ac-ft

2. Total amount of water proposed to be transferred or changed 0.02 cubic feet per second and/or 14.0 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	
02S	17E	11													S	S		S	
		12										S	S	S					

Total Acres (for irrigation use) _____

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 delivery system.
- b. Who owns the property at the point(s) of diversion? Black Butte Hills LLC
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: _____
- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A
- 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: N/A
- 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: 37-21301, 37-11989

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.: 37-12000

Current Owner: BLACK BUTTE HILLS LLC
Priority Date: 5/1/1917
Origin: Water Right
Status: Active
Basis: Decreed

Source

SPRING

Tributary

SINKS

Beneficial Use

From To

Diversion Rate

Annual Volume

STOCKWATER FROM STORAGE 01/01 to 12/31

14 AF

STOCKWATER STORAGE 01/01 to 12/31

14 AF

Total Diversion

14 AF

Location of Point(s) of Diversion

SPRING

NW1/4SE1/4SE1/4

Sec. 11, Twp 02S, Rge 17E B.M.

CAMAS County

SPRING

NW1/4NW1/4SE1/4

Sec. 11, Twp 02S, Rge 17E B.M.

CAMAS County

Place of Use

STOCKWATER FROM STORAGE Within CAMAS County

T02S R17E S11

SESE

T02S R17E S12

SWSW

T02S R17E S12

SESW

STOCKWATER STORAGE Within CAMAS County

T02S R17E S11

SESE

T02S R17E S12

SWSW

T02S R17E S12

SESW

Conditions of Approval:

1. N13 The quantity of water under this right shall not exceed 13,000 gallons per day.
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. N11 The quantity of water decreed for this water right is not a determination of historical beneficial use.

Page 5 of 7

Decreed Date: 2/3/2010

Total Acres (for irrigation use)

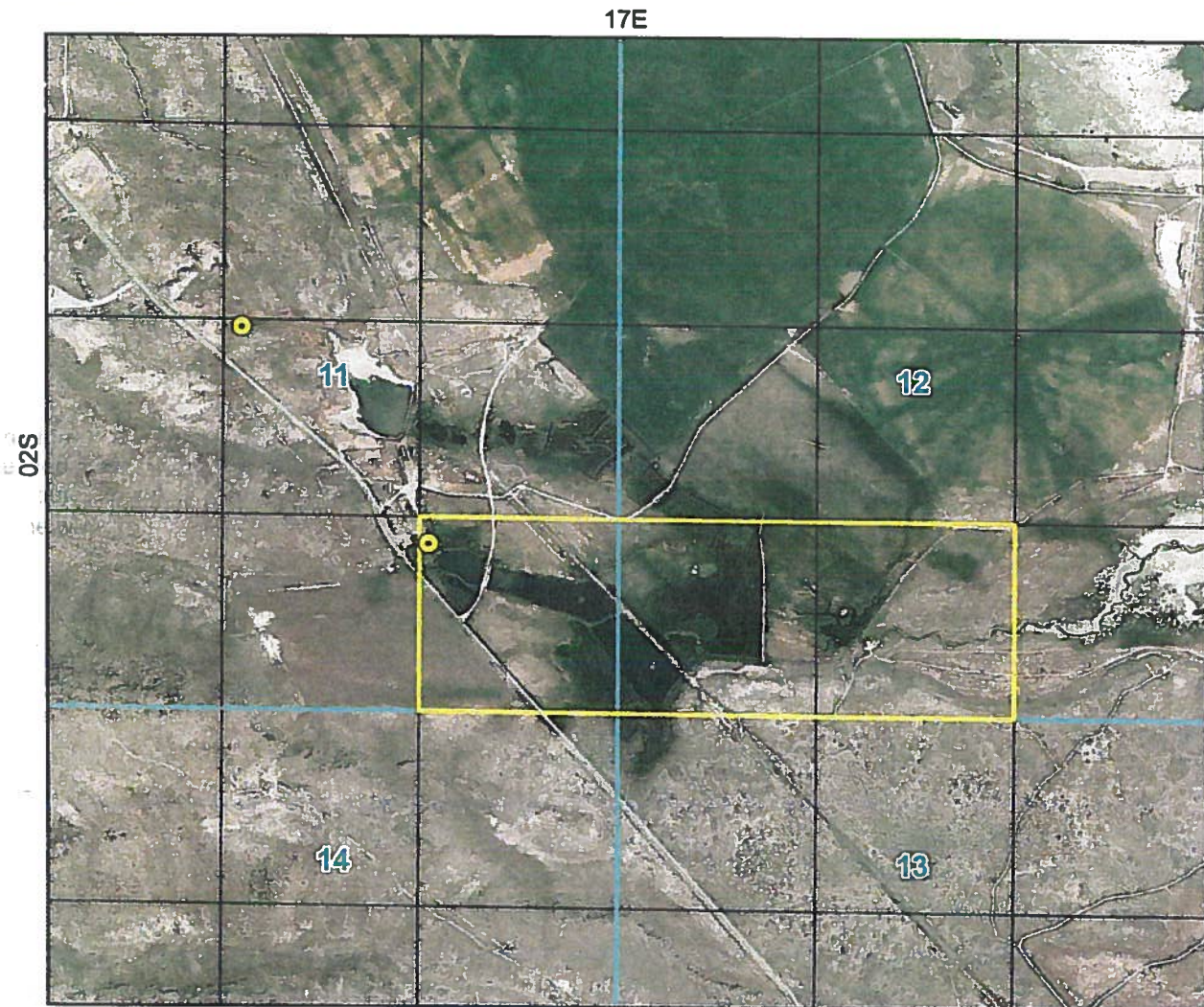
Add'l Fee Paid _____ Date 1/7 Received by _____ Receipt # _____

State of Idaho
Department of Water Resources

Water Right
37-12000

STOCKWATER STORAGE

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.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.15 0.3 0.6 Miles

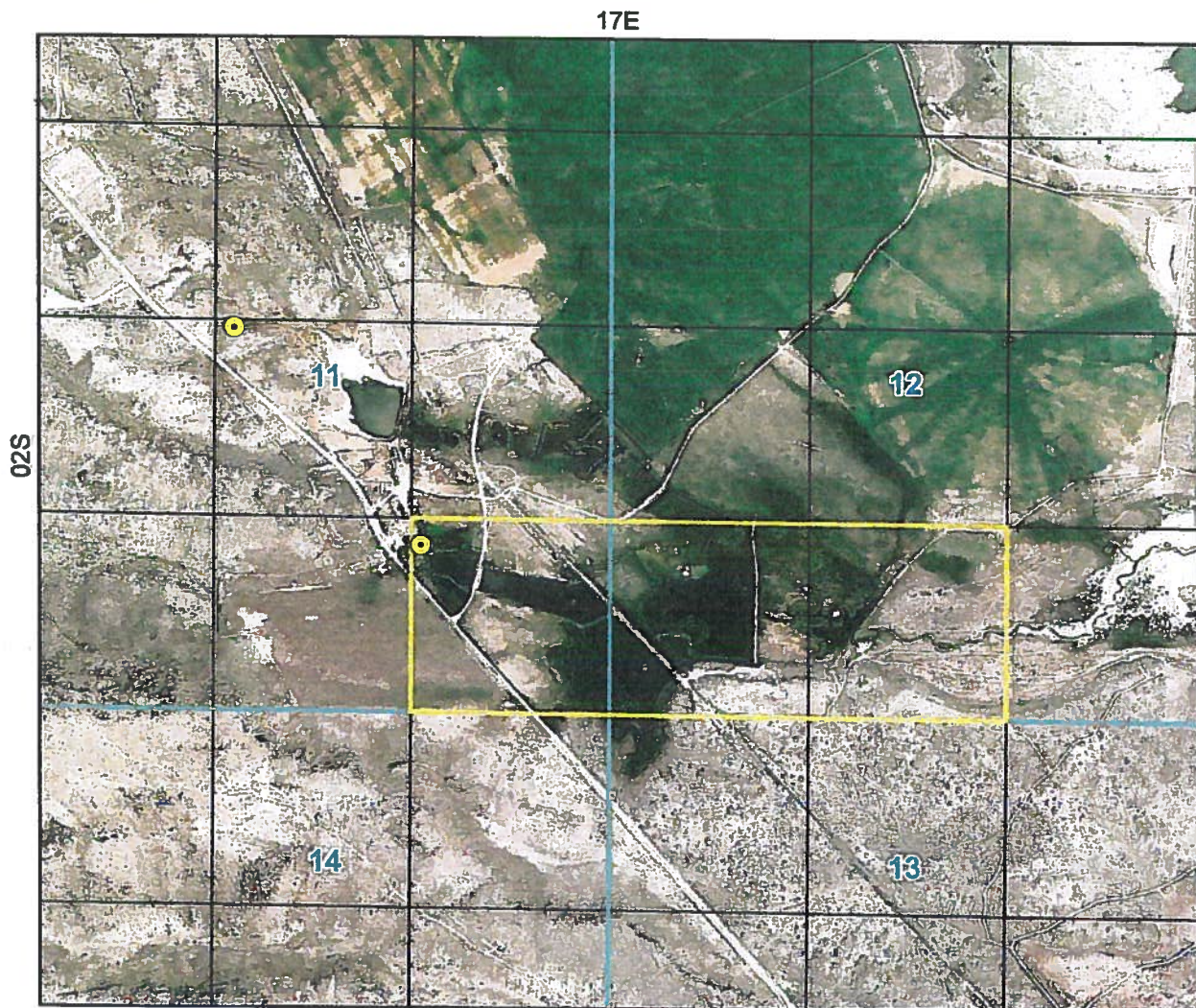


State of Idaho
Department of Water Resources

Water Right
37-12000

STOCKWATER FROM STORAGE

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.

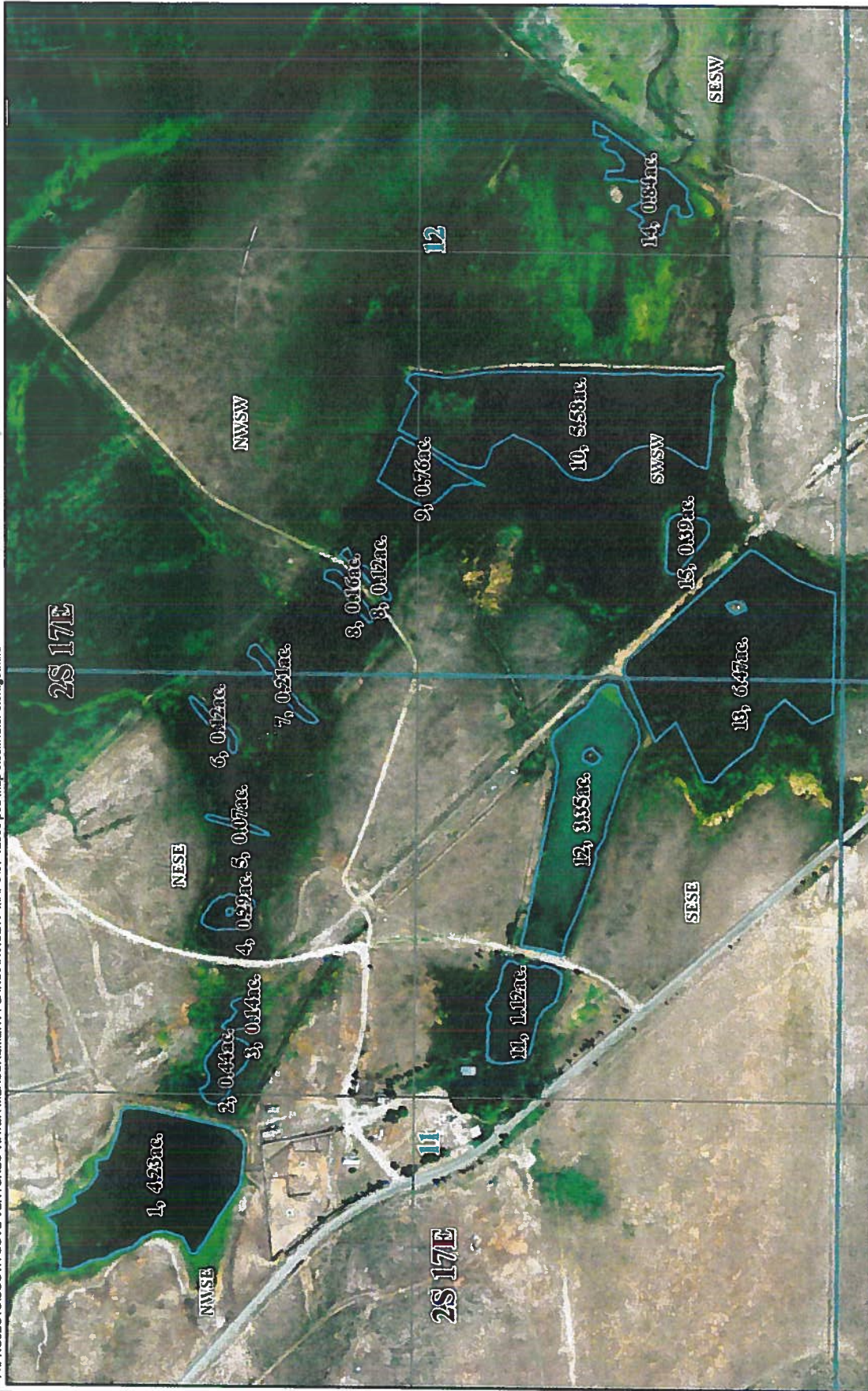


- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.15 0.3 0.6 Miles



TRANSFER 78752



**BLACK BUTTE HILLS LLC
37-12000 STOCKWATER STORAGE POU
NAIP 2011 AERIAL PHOTO**



BROCKWAY ENGINEERING, PLLC.
ALR - OCT. 11, 2012

Maline, Denise

From: Maline, Denise
Sent: Thursday, August 29, 2013 4:23 PM
To: Kevin Lakey
Subject: Comment Letters
Attachments: Comment Letter to WM37.pdf; Permit App 37-21301.pdf; Transfer App 78752.pdf; Transfer App 78753.pdf; Transfer App 78304.pdf

Dear Kevin,

Attached please find a cover letter, recommendation forms, and a copy of Application for Permit No. 37-21301; as well as Transfer applications 78304, 78752 & 78753. 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
Administrative Assistant, Southern Region
Idaho Dept of Water Resources
1341 Fillmore St, Ste 200
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 29, 2013

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

Via e-mail

RE: Application for Permit No. 37-21301

RE: Transfer No. 78304
Water Right No(s). 37-2211, 37-22771

RE: Transfer No. 78752
Water Right No(s). 37-12000

RE: Transfer No. 78753
Water Right No(s). 37-11989

Dear Mr. Lakey:

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.

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, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

August 29, 2013

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

RE: Application for Permit No. 37-21301, 47-17611, 45-14446

RE: Transfer No. 78304
Water Right No(s). 37-2211, 37-22771

RE: Transfer No. 78752
Water Right No(s). 37-12000

RE: Transfer No. 78753
Water Right No(s). 37-11989

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
Denise Maline
Southern Region

Enclosure(s)

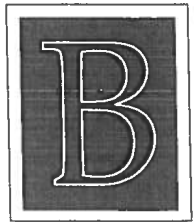
MEMORANDUM

Date: August 23, 2013
To: Transfer 78752 File
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Application proposes changing the place of use to describe the pond locations where water storage actually occurs (adjacent to decreed tracts) for right 37-12000. In addition, transfer identifies a diversion to storage amount since the ponds are not located at the source (springs) and the decreed use is not considered on stream storage. There should be no hydrologic impacts resulting from the transfer. Therefore, it is recommended that the application be processed, and approved, without public notice advertising. Right 37-12000, diverted from springs, is located within water district 37 so water master comments will be solicited.

- **Authority to File:**
The applicant, Black Butte Hills LLC, is listed as the current owner of the right involved in the transfer.
- **Water Right Validity:**
The right involved with the transfer was decreed in February 2010.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No negative impact anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed uses are recognized as beneficial uses of water.
- **Effect on Economy of the Local Area:**
None anticipated.
- **Effect of the Agricultural Base of the Local Area:**
None anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JUL 30 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

July 30, 2013

Corey Skinner
Idaho Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, Idaho 83301

Re: Black Butte Hills LLC

Dear Mr. Skinner:

It is desired by Black Butte Hills to update and correct the characteristics of water rights 37-12044, 37-12000, 37-11989, 37-2211, 37-22771 and application for permit 37-21301.

Water right 37-12044 is a domestic and stock water right. The place of use of this water right is being corrected with a transfer. A fee of \$200.00 will be paid to IDWR.

Application for permit 37-21301 is being amended to a diversion to storage of 1.0 cfs and an 81.6 afa of stock water storage and wildlife storage. The stock water storage and wildlife storage will be beneficially used in ponds 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14 and 15. The permit application fee has already been paid to IDWR (Receipt #SO240740). A 38.3 acre portion or 81.6 acre feet of water has been dried up in 2009 to offset the initial fill requirement for ponds 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14 and 15.

Water right 37-12000 will have a diversion to storage of 0.02 cfs and a 14.0 afa for stock water storage. The place of use of 37-12000 will be changed to include ponds 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15. A fee of \$200.00 will be paid to IDWR to process this transfer.

Water right 37-11989 will have its place of use for irrigation storage identified as pond 1 and pond 11. The place of use for irrigation from storage will be reduced from 787 to 770.8 acres. The POU of 37-11989 will match the POU of water right 37-22771 and 37-2211. A fee of \$200.00 dollars will be paid to IDWR to update the POU of this water right.

Transfer 78304 will be amended by drying up 16.2 acres under ground water right 37-22771 for mitigation purposes to offset the evaporation losses from

CHARLES E.
BROCKWAY,
PH.D., P.E.

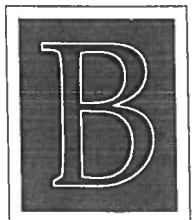
CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506



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Hydraulics

Hydrology

Water Resources

ponds 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15. The defined place of use for 37-22771 and 37-2211 will be reduced to 770.8 acres. The transfer fee for these water rights have previously been paid to IDWR (Receipt #SO240740).

Please copy our office on all correspondence regarding these applications.

Sincerely,

Greg Sullivan, M.S.

Cc: Greg Vik, Jim Speck, Rod Gonsales,

Enc: Transfer Applications, Aerial Maps for Each Proposed Transfer, Spreadsheet Analysis of Mitigation Requirements and Transfer Summaries, Brockway Engineering Check # 11538 for \$600.00

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

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