

RECEIVED**AUG 12 2013**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78692**DEPT. OF WATER RESOURCES SOUTHERN REGION MINIMUM REQUIREMENTS CHECKLIST**
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <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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Rev. 07/11

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STATE OF IDAHO
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer No.

78692

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Brigham Young University Phone 801-422-3670

Mailing address Administrative Vice President, ASB B-340, Provo, UT 84602 Email brian_evans@byu.edu

- ☐ 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 Brian Evans, Administrative Vice President Phone 801-422-3760

Mailing address ASB B-340, Provo, UT 84602 Email brian_evans@byu.edu

☒ 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.

Brian Evans
Signature of Applicant or Authorized Representative

BRIAN K. EVANS, CFO 23 July 2013
Print Name and Title if applicable 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**. Application will change the place of use by adding the NENW, Section 20, T11S, R26E, which was
incorrectly listed as a place of use on WR 43-10137A.

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 ☒ ☐	43-10137B	0.02 cfs	Stockwater	04/01 to 12/31	Spring to Sinks
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

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

2. Total amount of water proposed to be transferred or changed 0.02 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	
11S	26E	18													X				
11S	26E	20					X												

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: _____

NA

- b. Who owns the property at the point(s) of diversion? U.S. Department of Interior, Bureau of Land Management

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Burley BLM Hydrologist Steve Davis researched the issue, and reports that the permission to use the spring was probably grandfathered in, with no written agreement.

- 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:

NA

- 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 BLM has two water rights diverted from the same spring: 43-4138 (Stockwater, 0.01 cfs) and 43-11093 (Stockwater, 0.02 cfs).

- 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: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/> , Water Right Transfers, Step 1.

Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: _____

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

[illegible]

Total Acres (for irrigation use) _____

APPLICATION FOR TRANSFER OF WATER RIGHT PART 3

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.

☐ 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. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.:

[illegible]

Transfer contains _____ pages and _____ attachments.

Received by Jim B. Date 8-12-13 Prelim. Check by Jim B. Date 8-12-13

Fee Paid 200.⁰⁰ Date 8-12-13 Received by Jin B. Receipt # 5033458

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

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-10137B

WATER RIGHT NUMBER: 43-10137B

<u>Owner Type</u>	<u>Name and Address</u>
Representative	BRIGHAM YOUNG UNIVERSITY C/O DAVID ANDREASON 887 E 500 S DECLO, ID 83323 (208)645-2414
Representative	BRIAN EVANS ASB B-340 PROVO, UT 84602 (801) 422-3760
Current Owner	BRIGHAM YOUNG UNIVERSITY C/O OFFICE OF GENERAL COUNSEL A-357 ASB PO BOX 21333 PROVO, UT 84602-1333 (801)378-3080

Priority Date: 01/01/1961

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	4/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

SPRING	SW1/4NW1/4SE1/4	Sec. 18, Twp 11S, Rge 26E, B.M.
CASSIA County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	26E	18													X				

Conditions of Approval:

1. 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.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-10137B

2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. SOURCE IS LOCALLY KNOWN AS SAUNDERS SPRING NORTH.
4. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
5. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
6. STOCKWATER, 350 RANGE CATTLE RPT11SR26E190000A

Remarks:Comments:

1. SSHERMAN 11/18/1997 COPIED FROM REMARKS
Comment: CLAIMANT OWNS LAND UPON WHICH SPRING NO. 2 IS LOCATED. THE BUREAU OF LAND MANAGEMENT OWNS THE LAND UPON WHICH SPRING NOS. 1 AND 3 ARE LOCATED. CLAIMANT HAS A BUREAU OF LAND MANAGEMENT GRAZING PERMIT TO GRAZE CATTLE ON LAND UPON WHICH SPRING NOS. 1 AND 3 ARE LOCATED. SPRING NOS. 1, 2, AND 3 ARE IN THE SAME PASTURE UNIT.
2. JROBERTS 2/9/1998 REDUCED DIVERSION RATE
Comment: REDUCED DIVERSION RATE TO .02 CFS FOR INSTREAM USE. jr

Dates and Other Information:

Licensed Date:
 Decreed Date: 3/13/2000
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant:
 Decree Plaintiff:
 Civil Case Number: 39576
 Judicial District: FIFTH
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

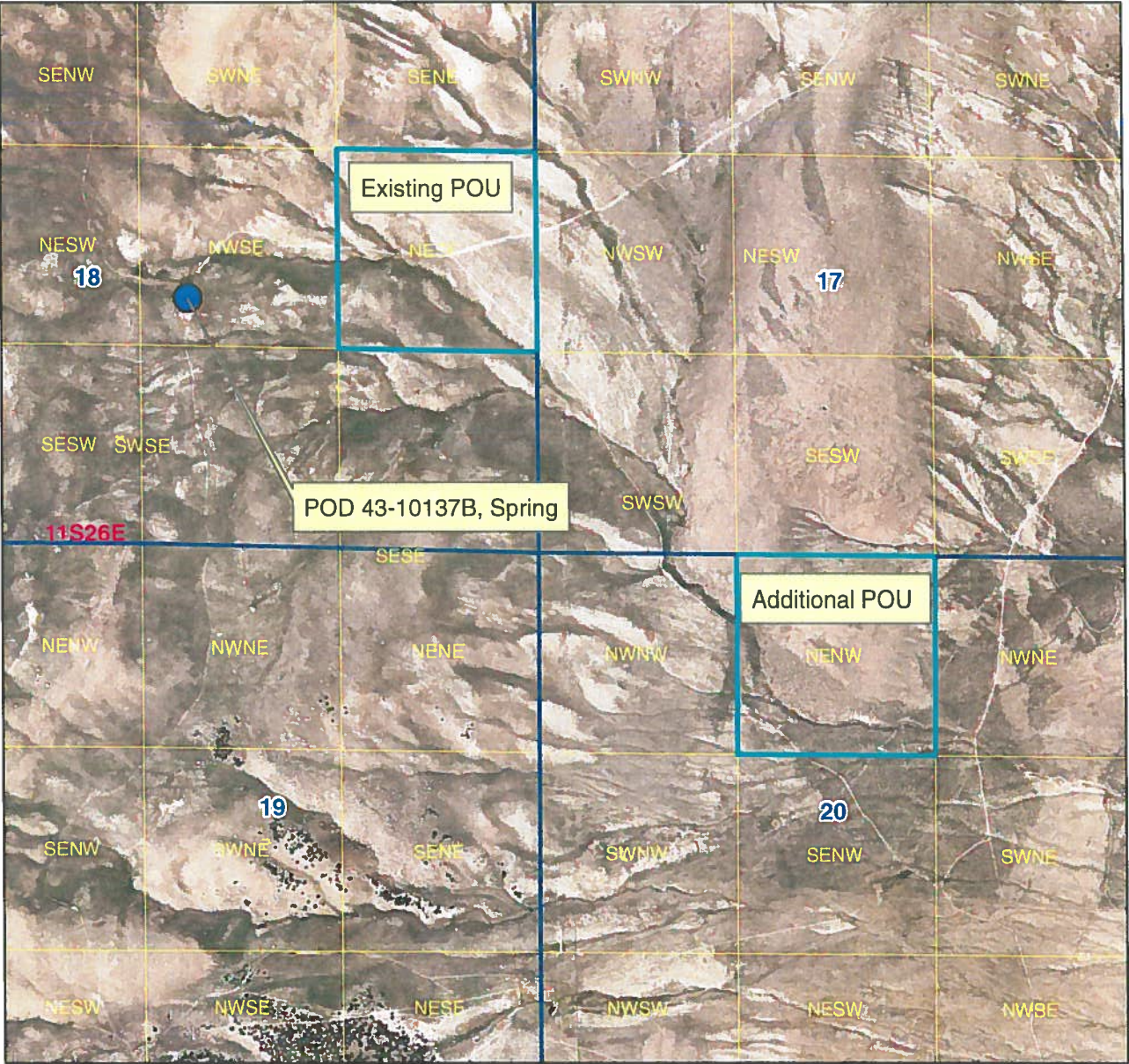
<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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Water Supply Bank:

Idaho Department of Water Resources

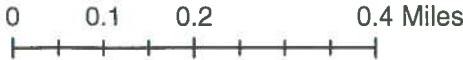


**BYU/Skaggs Ranch
Water Right 43-10137B
After Transfer**

Legend

-  Township/Range
-  Sections
-  QQ

TRANSFER 78692



MEMORANDUM

Date: August 26, 2013
To: Transfer 78692 File
From: Jim Bitzenburg
Re: Ownership of POD

On July 8, 2013 I talked by phone with Steve Davis, hydrologist with the Burley BLM Field Office about permission for BYU to use the spring on BLM ground. He talked to the State BLM office about the issue and reports that the permission doesn't involve a written agreement, but was probably grandfathered in years ago.

MEMORANDUM

Date: August 22, 2013
To: Transfer 78692 File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

This application seeks to change the place of use (POU) for water right 43-10137B (Stockwater, 0.02 cfs) by adding the NENW, Section 20, T11S, R26E, which was incorrectly described as a POU for right 43-10137A. A previous transfer removed this POU from right 43-10137A. The new POU is located approximately 10.4 mi. N and 3.8 mi. W of the intersection of State Highways 77 and 81 in Malta, Idaho. The existing POU is located approximately 10.9 mi. N and 4.3 mi. W of Malta. The POD is a spring, known locally as Saunders Spring North, and is located approximately 10.8 mi. N and 4.7 mi. W of Malta.

- **Authority to File:**
The Department's database indicates that water right 43-10137B is owned by the applicant, Brigham Young University. Application was signed by Brian Evans, who is the representative for Brigham Young University. Applicant provided a signed letter from an authorized agent for BYU, allowing Mr. Evans to pursue the proposed changes.
- **Water Right Validity:**
Right 43-10137B was partially decreed in the SRBA in March of 2000. Based on field observations on March 29, 2013, forfeiture does not appear to be an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the 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.

OFFICE OF THE GENERAL COUNSEL

ERIK G. DAVIS

University Counsel



June 25, 2013

Mr. Jim Bitzenburg
State of Idaho, Water Resource Agent
Southern Regional Office
Phone (208)-736-3033
Fax (208)-736-3037
james.bitzenburg@idwr.idaho.gov

Re: BYU Water Transfer Applications

Dear Mr. Bitzenburg:

I am aware that Applications for Transfer of Water Right and/or Place of Use transfer have been recently or will be shortly submitted to the State of Idaho Water Resources Department, on behalf of Brigham Young University (BYU). I understand that you require confirmation from my office that Brian K. Evans, who has signed these applications, is authorized to sign on behalf of BYU. I am writing now to confirm Mr. Evans' authority to sign on behalf of BYU.

Brigham Young University's bylaws provide, in Section 6.01, that that any instrument in writing, when signed by any Vice President of the university, will be valid and binding on the university. Brian K. Evans currently serves as the Administrative Vice President and Chief Financial Officer of Brigham Young University, and is therefore authorized by this section of the university bylaws to sign on behalf of BYU.

Please let me know if you need anything further in order to process these applications.

Sincerely,

Erik G. Davis
University Counsel
Office of the General Counsel
Brigham Young University

c: Delmas W. Johnson

THE CHURCH OF
JESUS CHRIST
OF LATTER-DAY SAINTS

RECEIVED

AUG 12 2013

DEPT. OF WATER RESOURCES
SOUTHERN REGION

SPECIAL PROJECTS DEPARTMENT

Real Estate Services Division
50 East North Temple Street
Salt Lake City, Utah 84150-0012
Phone: 1-801-240-2915
Facsimile: 1-801-240-4005

7 August 2013

Mr. James Bitzenburg, Water Resource Agent
Southern Regional Office, IDWR
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RE: APPLICATION FOR TRANSFER OF WATER RIGHT
Skaggs Ranch, Cassia County, Idaho

Dear Mr. Bitzenburg,

Enclosed please find the Checklist, Application for Transfer and a check for \$200 for the above location. This will allow change for the Point of Use from WR 43-10137A to WR 13-1037B.

Thank you for your time and patience to effect the changes at the Skaggs Ranch and bring us into compliance with our existing Water Rights. I especially appreciate your help in preparing the transfer. If you have any questions, please contact me or Mr. Delmas Johnson regarding this application.

Sincerely,



Elder Wiley Ricks Smith

cc: Mr. Russell Nielson, Controller
BYU College of Life Science