

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78691

JUL 03 2013

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

WATER RESOURCES

Name of Applicant(s) Obendorf Malheur Farms, LLCPhone (208) 722-6451Mailing address 26496 Deb Lane, Parma, Idaho 83660

Email _____

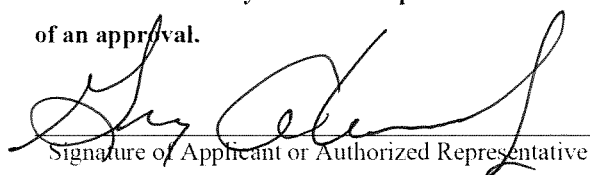
- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the 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 Dana L. Hofstetter, Hofstetter Law Office, LLCPhone (208) 424-7800Mailing address 608 West franklin Street, Boise, Idaho 83702Email Dana@IdahoWaterLaw.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

Gregory R. Obendorf, Manager 7/3/2013

Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Ownership Change/Split
- Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. The Applicant recently purchased the SENW of Section 10, T4N, R5W along with the appurtenant water rights and desires to drill a well on the property to divert the appurtenant portion of 63-33475.

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 ☐ ☒	63-33475	2.16 cfs	irrigation	3/1 to 11/15	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.16 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 0.72 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 #
YES			SE	NW	10	4N	5W	Canyon	Ground Water	

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☒ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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: _____

well and pump. provision will be made for a measuring device and lockable controlling works, if required.

- b. Who owns the property at the point(s) of diversion? Obendorf Malheur Farms, 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: _____

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:

- 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:

Wilder Irrigation District

- 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: _____

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

Current Water Right No.: 63-33475

Current Owner: NORMAN A BATT
FREDERICK C BATT

Priority Date: 3/6/1992

Origin: Water Right

Status: Active

Basis: License

Source

Tributary

GROUND WATER

Beneficial Use

From To

Diversification Rate

Annual Volume

IRRIGATION

03/01 to 11/15

1.56 CFS

Total Diversion

1.56 CFS

Location of Point(s) of Diversion

GROUND WATER

SW1/4SE1/4SE1/4

Sec. 9, Twp 04N, Rge 05W B.M.

CANYON County

Place of Use

IRRIGATION Within CANYON County

T04N R05W S9

NESE

34.00

T04N R05W S9

SESE

38.00

T04N R05W S10

SENE

36.00

Total Acres: 108

Page 5 of 8

Conditions of Approval:

1. WB7 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor exceed a combined annual maximum diversion volume of 351af at the field headgate for the 78 acres authorized to be irrigated under this right.
2. 065 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
3. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
4. 104 If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
5. R27 This right when combined with all other rights shall provide no more than 4.5 afa per acre for irrigation of the lands above.
6. X27 This right is limited to the irrigation of 78 acres within the place of use described above in a single irrigation season.

Licensed Date: 12/19/2001

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: 63-33475

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

[illegible]

Total Acres (for irrigation use)	36
----------------------------------	----

RECEIVED

JUL 03 2013

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

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: _____

Pg 8 of 8

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

WARRANTY DEED

2012018499
RECORDED
2012 May 8 AM 10 36
CHRIS YAMAMOTO
CANYON CNTY RECORDER
BY M. Brown
Requestor Pioneer Title Canyon - Ca
Type DEED
Fee \$16.00
ELECTRONICALLY RECORDED BY SIMPLIFILE

FOR VALUE RECEIVED, STUART ALAN BATT, a married man as his sole and separate property, **REED BATT**, a married man as his sole and separate property, and **DONNA VIOLA BATT**, as Trustee of the Stephen Batt Credit Shelter Trust, the Grantors, do hereby grant, bargain, sell and convey unto **OBENDORF MALHEUR FARMS, LLC**, the Grantee, of 26496 Deb Lane, Parma, Idaho 83660, the following described premises, situated in Canyon County, State of Idaho, to-wit:

The Southeast Quarter of the Northwest Quarter of Section 10, Township 4 North, Range 5 West of the Boise Meridian, Canyon County, Idaho.

Together with all water, water rights, ditches and rights of way for ditches thereunto belonging or in anywise appertaining.

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

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And that Grantors do hereby covenant to and with Grantee that the Grantors are the owners in fee simple of said premises; that said premises are free from all encumbrances and that Grantors will warrant and defend the same from all lawful claims whatsoever.

DATED this 2nd day of May, 2012

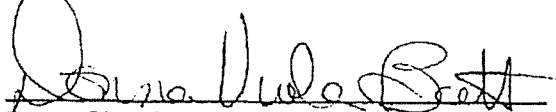
STUART ALAN BATT

REED BATT

WARRANTY DEED - 1

Attachment #2a

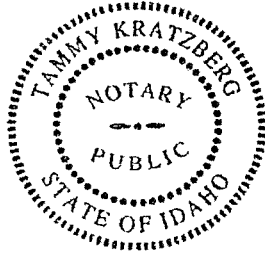
STEPHEN BATT CREDIT SHELTER TRUST

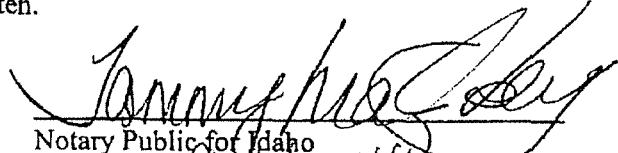

By: DONNA VIOLA BATT, Trustee

STATE OF IDAHO)
: ss.
County of Canyon)

On this 2nd day of May, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared STUART ALAN BATT, known to me to be the person who executed the foregoing document and acknowledged to me that he executed the same.

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

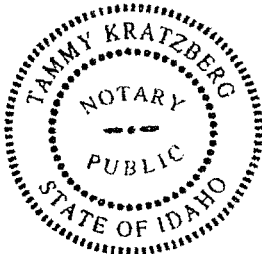


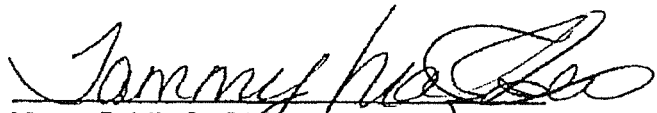

Notary Public for Idaho
Residing at: Caldwell, Idaho
My Commission Expires: 2/3/2016

STATE OF IDAHO)
: ss.
County of Canyon)

On this 2nd day of May, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared REED BATT, known to me to be the person who executed the foregoing document and acknowledged to me that he executed the same.

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




Notary Public for Idaho
Residing at: Caldwell, Idaho
My Commission Expires: 2/3/2016

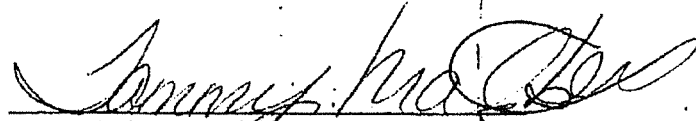
STATE OF IDAHO)

: ss
County of Canyon

On this 2nd day of May, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared DONNA VIOLA BATT, as the Trustee of the Stephen Batt Credit Shelter Trust, proved to me by sufficient evidence to be the person who executed the foregoing document and acknowledged to me that she executed the same.

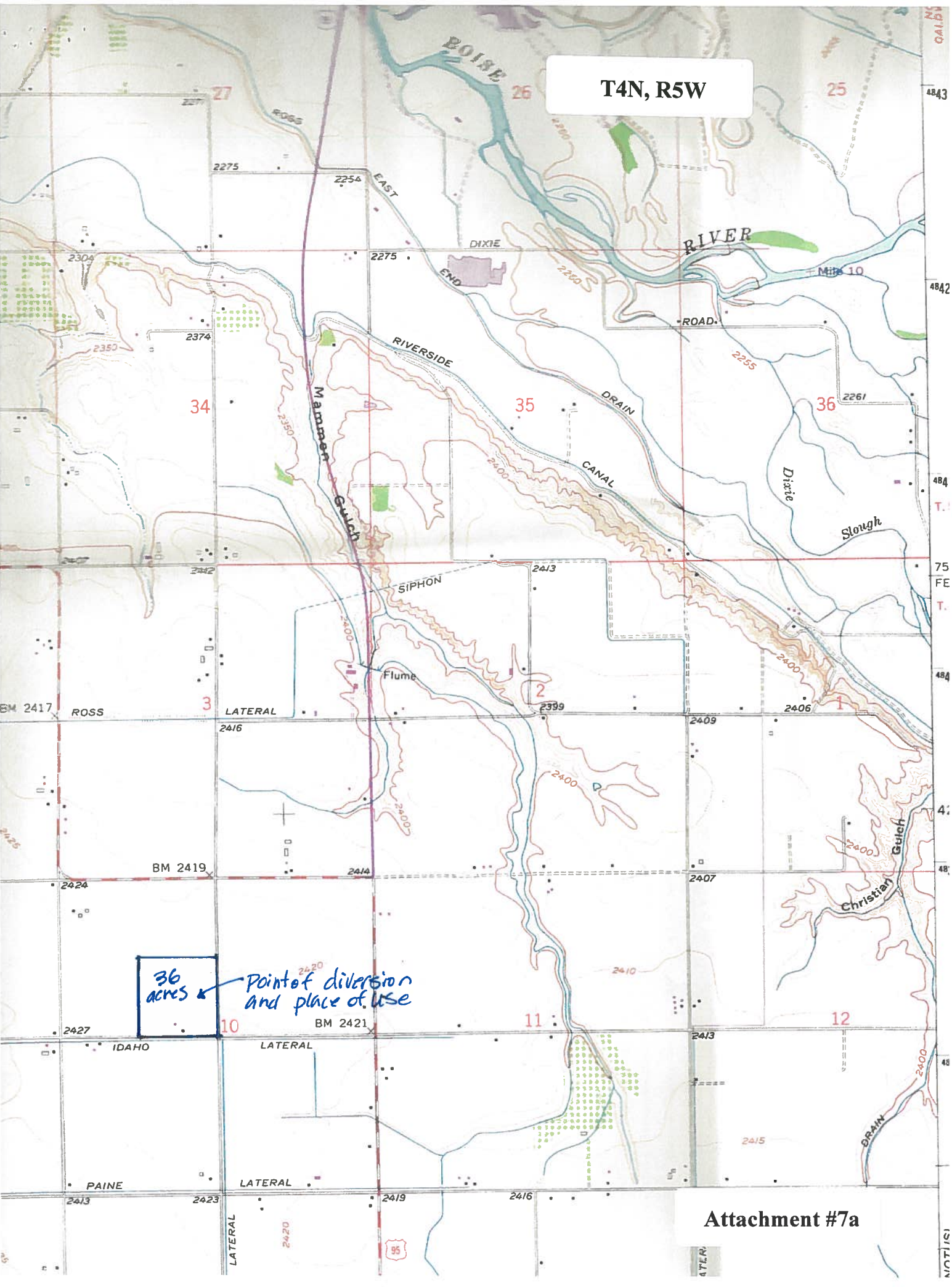
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho
Residing at: Caldwell, Idaho
My Commission Expires: 5/3/2014

No. W 86358	Reinstatement Annual Report Form ADMIN DISSOLVED 11/10/2010		2. Registered Agent and Office (NOT A P.O. BOX) GREGORY R OBENDORF 26496 DEB LANE PARMA ID 83660															
Return to: SECRETARY OF STATE 450 N 4th STREET PO BOX 83720 BOISE, ID 83720-0080 REINSTATEMENT FEE DUE: \$30.00	1. Mailing Address: Correct in this box if needed. OBENDORF MALHEUR FARMS, LLC 26496 DEB LANE PARMA ID 83660		3. <u>New</u> Registered Agent Signature.															
4. Limited Liability Companies: Enter Names and Addresses of Managers OR Members. See Instructions. <table border="1"> <thead> <tr> <th>Manager or Member</th> <th>Name</th> <th>Street or PO Address</th> <th>City</th> <th>State</th> <th>Country</th> <th>Postal Code</th> </tr> </thead> <tbody> <tr> <td>Manager Member (circle one)</td> <td>Gregory R. Obendorf</td> <td>26496 Deb Lane</td> <td>Parma</td> <td>ID</td> <td>USA</td> <td>83660</td> </tr> </tbody> </table>					Manager or Member	Name	Street or PO Address	City	State	Country	Postal Code	Manager Member (circle one)	Gregory R. Obendorf	26496 Deb Lane	Parma	ID	USA	83660
Manager or Member	Name	Street or PO Address	City	State	Country	Postal Code												
Manager Member (circle one)	Gregory R. Obendorf	26496 Deb Lane	Parma	ID	USA	83660												
5. Organized Under the Laws of: IDAHO W 86358	6. <table border="1"> <tr> <td>Signature: </td> <td>Date: 3/20/12</td> </tr> <tr> <td>Name (type or print): Gregory R. Obendorf</td> <td>Title: Manager</td> </tr> </table>				Signature: 	Date: 3/20/12	Name (type or print): Gregory R. Obendorf	Title: Manager										
Signature: 	Date: 3/20/12																	
Name (type or print): Gregory R. Obendorf	Title: Manager																	
Issued 03/20/2012 by LLC																		

T4N, R5W



36 acres
Point of diversion
and place of use

Attachment #7a

Sommer, Rachel

From: Sommer, Rachel
Sent: Wednesday, July 10, 2013 11:58 AM
To: 'LEGALS@IDAHOPRESS.COM'
Subject: Canyon Legal Ad
Attachments: Canyon Cover Letter.docx; Canyon Legal Ad.docx

Good Morning Leann,

Please see the attached ad for publication on 7/18/2013 & 7/25/2013.

Please confirm these are okay to publish as shown.

Thank you very much,

Rachel Sommer

Administrative Assistant
IDWR, Western Region
Office: 208-334-2190
Fax: 208-334-2348
rachel.sommer@idwr.idaho.gov

July 10, 2013

LEGAL NOTICE DEPARTMENT
PRESS TRIBUNE
PO BOX 9399
NAMPA, ID 83652

RE: Transfer No. 78691
Water Right No. 63-33475

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 8/5/2013. Your cooperation is appreciated.

Sincerely,

Rachel Sommer
Administrative Assistant

Enclosures

PROPOSED CHANGE OF WATER RIGHT

Obendorf Malheur Farms LLC of 26496 Deb Ln., Parma ID 83660 filed Application No. **78691** to transfer one water right with a 1992 priority date from ground water totaling 1.56 cfs for supplemental irrigation for 78 acres in a 108 acre permissible place of use. The transfer proposes to split the right and add a new well for the applicant's portion of the land. The split will allow 0.52 cfs for 26 acres irrigation in applicant's 36 acres. Original well is about 1 mile west of Hwy 95 and just north of Red Top Road. Applicant's new well (use instead of original well) will be about 0.5 mile northeast of original well and near Batt Corner Road. Applicant thinks a department error in the original right implies applicant's use from proposed well should be 0.72 cfs for 36 acres irrigation.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right(s) and the proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before 8/5/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/18/2013 and 7/25/2013

HOFSTETTER LAW OFFICE

608 West Franklin Street
Boise, Idaho 83702

Dana@IdahoWaterLaw.com

Dana L. Hofstetter
Attorney at Law

Telephone: (208) 424-7800
Facsimile: (208) 424-8774

July 3, 2013

Steve Lester
Water Rights Supervisor
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Transfer - Water Right No. 63-33475

Dear Mr. Lester:

Enclosed is Obendorf Malheur Farms, LLC's Transfer Application for a portion of Water Right No. 63-33475, bearing Manager Greg Obendorf's original signature, along with a Hofstetter Law Office, LLC check in the amount of \$600.00 to cover the filing fee. **Please process this Transfer Application on an expedited basis so that it may be used for immediate irrigation, if necessary, due to this season's drought conditions.**

As we have previously discussed, it appears to me that there was an error in the place of use description in License No. 63-11700 and that this error was incorrectly carried over to progeny right 63-33475. The error involved the inclusion of a portion of the place of use (in Section 16, T4N, R5W) of Permit No. 63-11866 on License No. 63-11700 and a resulting proportional reduction in the duty of water (cfs/acre) on Water Right Nos. 63-11700 and 63-33475. Since Obendorf Malheur Farms, LLC desires to preserve all rights with respect to seeking to correct Water Right Nos. 63-11700, 63-11866 and 63-33475, the enclosed Transfer Application is based on the duty of water (0.02 cfs/acre) that was originally permitted under 63-11700 and that it contends should have been carried forward to License No. 63-11700 and Water Right No. 63-33475, for a total of 0.72 cfs for 36 irrigated acres. However, **due to the current drought conditions and the need to avoid delay and to expedite this Transfer Application, Obendorf Malheur Farms, LLC requests processing of this Transfer Application although, based on the current water right description, a lesser quantity of 0.52 cfs may be deemed associated with the subject 36 acres (or 0.014 cfs/acre).** Please do not hesitate to contact me if you have any questions about these matters. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



Dana L. Hofstetter

Enclosures
D:4027.9/10459