

Transfer No. 78657

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 12 2013

Department of Water Resources  
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1

Name of Applicant(s) Boehm Potato Farm LLC Phone: \_\_\_\_\_

Mailing Address: 1210 Pier View Drive, Idaho Falls, ID 83402 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 Luke H. Marchant Phone: (208) 523-0620

Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: lmarchant@holdenlegal.com

- ☒ Send all correspondence for this application to the representative and not 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

Luke Marchant, Attorney  
Print Name and Title if applicable

6/11/13  
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 if **Part 1A.2**. The purpose of this transfer is to correct the point of diversion for Water Right No. 35-14269. This water right was transferred to the current place of use last year. At that time, it was anticipated that a new well would be drilled in the SWSWSW of 2N, 37E, Section 32. For various reasons, the well was instead drilled approximately 0.37 miles to the northwest in the SWNESE of 2N, 37E, Section 31.

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**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<br>(cfs/ac-ft) | Nature of Use | Period of Use  | Source & Tributary |
|--------------------------------------------------------------|--------------|-----------------------|---------------|----------------|--------------------|
| All or part                                                  |              |                       |               |                |                    |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 35-14269     | 1.43 cfs/520AFA       | Irrigation    | 04/01 to 10/31 | Ground water       |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |
| <input type="checkbox"/> <input type="checkbox"/>            |              |                       |               | to             |                    |

Total authorized under rights: 1.43 cfs and/or 520 ac-ft.2. Total amount of water being transferred or changed 1.43 Cubic feet per second and/or 520 acre-feet 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 for diversion |
|-------------------------------------|-----|----|----|----|------|------|------|------------|--------------|--------------------------|
| <input checked="" type="checkbox"/> |     | SW | NE | SE | 31   | 2N   | 37E  | Bonneville | Ground Water |                          |

Per Transfer Memo No. 24, Part 12 it is not necessary to run an ESPA analysis because the proposed point of diversion is in a model grid cell adjacent to the current point of diversion.

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) \_\_\_\_\_

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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. Water is diverted from a new well drilled this spring. Measuring devices and controlling works will be installed if required by IDWR.

- 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:

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 or 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) of use: The place of use is also irrigated with water from the New Sweden 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: \_\_\_\_\_

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES  
Water Right Report

6/10/2013

WATER RIGHT NO. 35-14269

| <u>Owner Type</u> | <u>Name and Address</u>                                                         |
|-------------------|---------------------------------------------------------------------------------|
| Current Owner     | BOEHM POTATO FARM LLC<br>101 S CAPITAL BLVD STE 1900<br>BOISE, ID 83702         |
| Original Owner    | KETTLE BUTTE FARMS LTD<br>C/O WILLIAM PUGH<br>6062 ADAMS RD<br>TALENT, OR 97540 |

Priority Date: 01/14/1983

Basis: License

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| GROUND WATER  |                  |

| <u>Beneficial Use</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| IRRIGATION            | 04/01       | 10/31     | 1.43 CFS              | 520 AFA       |
| Total Diversion       |             |           | 1.43 CFS              |               |

Location of Point(s) of Diversion:

GROUND WATER|SWSWSW|Sec. 32|Township 02N|Range 37E|BONNEVILLE County

78657

Licensed Diversion Capacity: 7.58

Place(s) of use:

Place of Use Legal Description: IRRIGATION BONNEVILLE County

| <u>Township</u> | <u>Range</u> | <u>Section</u> | <u>Lot</u> | <u>Tract</u> | <u>Acres</u> | <u>Lot</u> | <u>Tract</u> | <u>Acres</u> | <u>Lot</u> | <u>Tract</u> | <u>Acres</u> | <u>Lot</u> | <u>Tract</u> | <u>Acres</u> |
|-----------------|--------------|----------------|------------|--------------|--------------|------------|--------------|--------------|------------|--------------|--------------|------------|--------------|--------------|
| 02N             | 37E          | 31             |            | NESE         | 29.5         |            | SESE         | 33.5         |            |              |              |            |              |              |
|                 |              | 32             |            | NWSW         | 36.5         |            | SWSW         | 30.5         |            |              |              |            |              |              |

Total Acres: 130

Conditions of Approval:

1. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.
2. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. 214 Prior to the diversion and use of water under Transfer approval 77958, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
4. 213 Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
5. R64 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
6. R55 This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.
7. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
8. T07 The right holder shall accomplish the change authorized by this transfer within one year(s) of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. SF2 This water right enjoys the benefit of subordination of hydropower water right nos. 02-00100, 02-4000A, 02-4001A, 02-02032A, 02-4000B, 02-4001B, 02-02032B, 02-02036, 02-02056, 02-02065, 02-02064, 02-10135, 02-02060. 02-02059, 02-02001B, 02-02001A, 02-02057,

37-02128, 37-02472, 37-02471, 37-20710, 37-20709, 36-02013, 36-02018 and 36-02026 only so long as the average daily flows as measured at the Murphy Gage station meet or exceed the minimum stream flows established by state action.

**Dates:**

Licensed Date: 09/25/1997

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

**Other Information:**

State or Federal:

Owner Name Connector:

Water District Number: 120

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 4

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)

Transfer No. \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 3

- A. **PLAT MAP (See Part 3A of instructions for application for transfer for complete requirements.)**
- ✓ 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.
- B. **CHANGES IN NATURE OF USE (Water Balance)**
- 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.**
- C. **PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS**
- If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b.**
1. 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 in Part 3B above.

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FOR DEPARTMENT USE ONLY

Transfer contains \_\_\_\_\_ pages and \_\_\_\_\_ attachments.

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Prelim. Check by \_\_\_\_\_ Date: \_\_\_\_\_

Fee paid: \_\_\_\_\_ Date: \_\_\_\_\_ Receipted by SCOX Receipt # E038790

Add'l fee paid \_\_\_\_\_ Date: \_\_\_\_\_ Receipted by \_\_\_\_\_ Receipt # \_\_\_\_\_

Transfer No. \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**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 an 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.**

**\*Means the item is always required and must be included with the application.**

Yes ~~N/A~~

- ☒ \* 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**

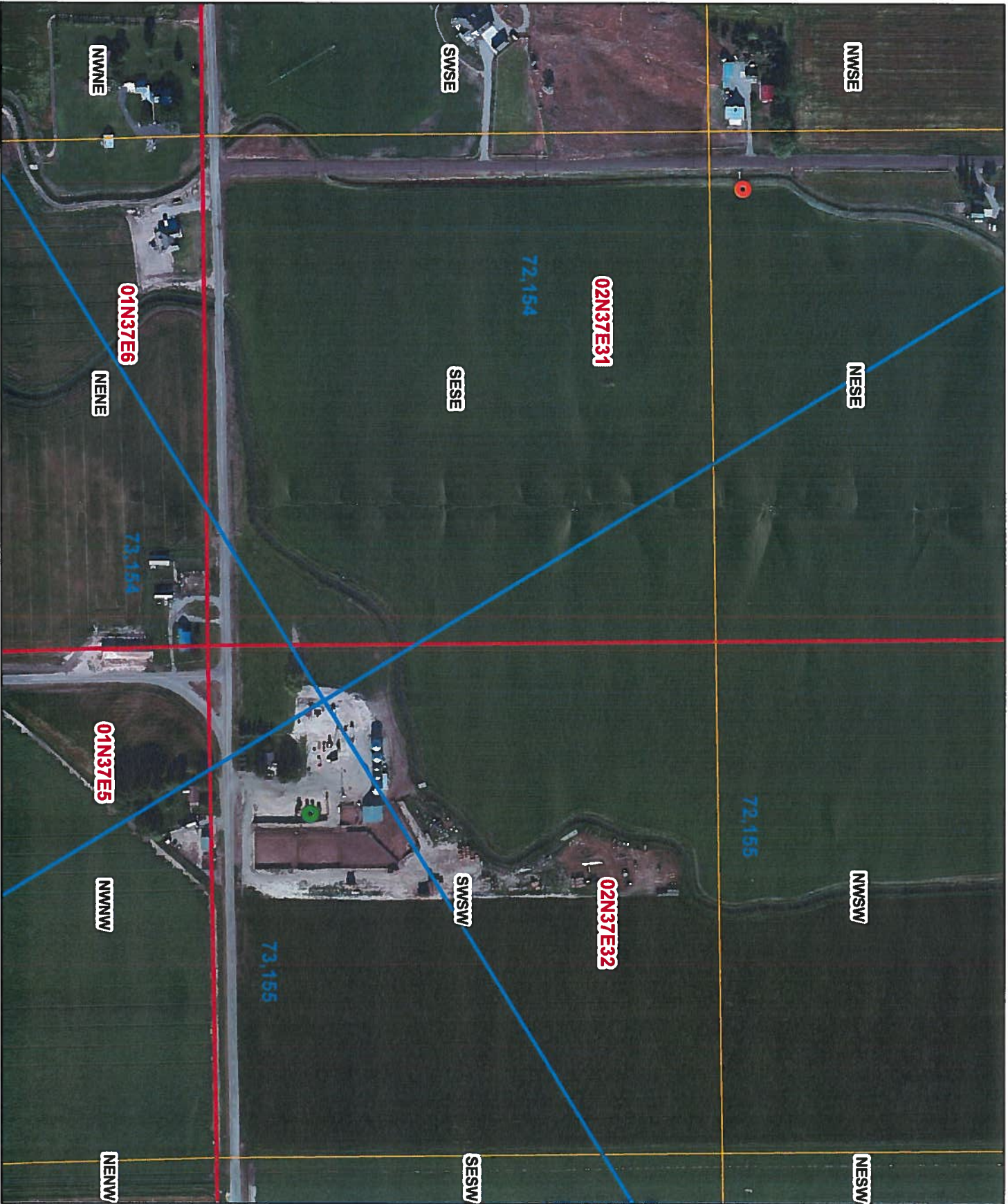
- ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder (see Part 1.)
- ☒ #2a Water Right ownership documentation 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).
- ☒ #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: \_\_\_\_\_

# WATER RIGHT NO. 35-14269 TRANSFER



**Legend**

- Proposed POD
- Current POD
- Model Grid
- Section Lines
- Quarter Quarters



Bing Aerial Photo

Prepared by:  
Luke H. Marchant  
06/11/2013