

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 78181

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) M & K Properties LLC Phone (208) 529-3181Mailing address PO Box 3853, Idaho Falls, ID 83403 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 Mark Andrews Phone same as aboveMailing address same as above Email _____☐ 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.

Mark R. Andrews
Signature of Applicant or Authorized Representative

MARK ANDREWS
Print Name and Title if applicable

9-12-12
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

RECEIVED

SEP 17 2012

Department of Water Resources
Eastern Region**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 _____
- 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. See attached description - part 1A.2**

78181

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 ☒ ☐	17-2052	0.49 / 210	Irrigation (145 acres)	4/1 to 10/31	Ground Water
☒ ☐	17-7063	1.62 / 443.4	Irrigation (360 acres)	4/1 to 10/31	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.11 cfs and/or 653.4 ac-ft

2. Total amount of water proposed to be transferred or changed 0.40 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	
14S	32E	25			25.8					39.5	34.3	28.8	29.5	32.0		34.0	32.3		256.2
		26													30.3			29.5	59.8

Total Acres (for irrigation use) 316

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: _____
Ground water well and pump to mainline. 2 pivots and wheel line system. Flow meter could be installed on the mainline near the pump if it is required in the future.
- 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 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:
Irrigation place of use will be consolidated onto 316 acres to increase the diversion rate per acre.
- 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:
No other irrigation water rights exist on the property.
- 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: _____
Water rights are currently used for irrigation.

M & K Properties Transfer #1

Part IA.2 Purpose of Transfer

This transfer proposes to consolidate ground water rights 17-2052 and 17-7063 onto a smaller irrigated place of use to increase the diversion rate per acre. Right 17-2052 authorizes the diversion of 0.49 cfs and the irrigation of 145 acres. Right 17-7063 authorizes the diversion of 1.62 cfs and the irrigation of 360 acres. The places of use for the two rights overlap each other by 116 acres. Therefore, the total amount currently authorized under the two rights, when combined, is 2.11 cfs and 389 acres. This equates to about $\frac{1}{4}$ inch of water per acre. This transfer will create a combined place of use for the two rights of 316 acres. This will bring the rate per acre up to about $\frac{1}{3}$ inch of water per acre.

The water rights share a common point of diversion, a ground water well located in the SENW of Section 25, T14S, R32E. The point of diversion will not change in this transfer.

This transfer also proposes updating the season of use for the water rights. Currently, right 17-2052 lists a season of use of 4/1 to 11/1 and right 17-7063 lists a season of use of 5/1 to 9/15. The irrigation season of use recognized by IDWR for this area is 4/1 to 10/31. The season of use will be updated to match the standard irrigation season for the area.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 17-2052

WATER RIGHT NUMBER: 17-2052

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	M & K PROPERTIES LLC PO BOX 3853 IDAHO FALLS, ID 83403 (208)529-3181

Priority Date: 04/15/1966

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>Annual Volume</u>
IRRIGATION	4/01 to 11/01	0.490 CFS	210.00 AF
	<u>Total Diversion:</u>	0.490 CFS	210.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NW1/4	Sec. 25, Twp 14S, Rge 32E, B.M.
ONEIDA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	32E	25																	
			29.0				40.0				40.0				36.0				145.0

Total Acres: 145

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 17-7063

WATER RIGHT NUMBER: 17-7063

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	M & K PROPERTIES LLC PO BOX 3853 IDAHO FALLS, ID 83403 (208)529-3181

Priority Date: 09/12/1975

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>Annual Volume</u>
IRRIGATION	5/01	to 9/15	1.620 CFS	443.40 AF
	<u>Total Diversion:</u>		1.620 CFS	443.40 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4NW1/4	Sec. 25, Twp 14S, Rge 32E, B.M.
ONEIDA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	32E	25								40.0	40.0	40.0	40.0	40.0					280.0
14S	32E	26													40.0			40.0	80.0

Total Acres: 360

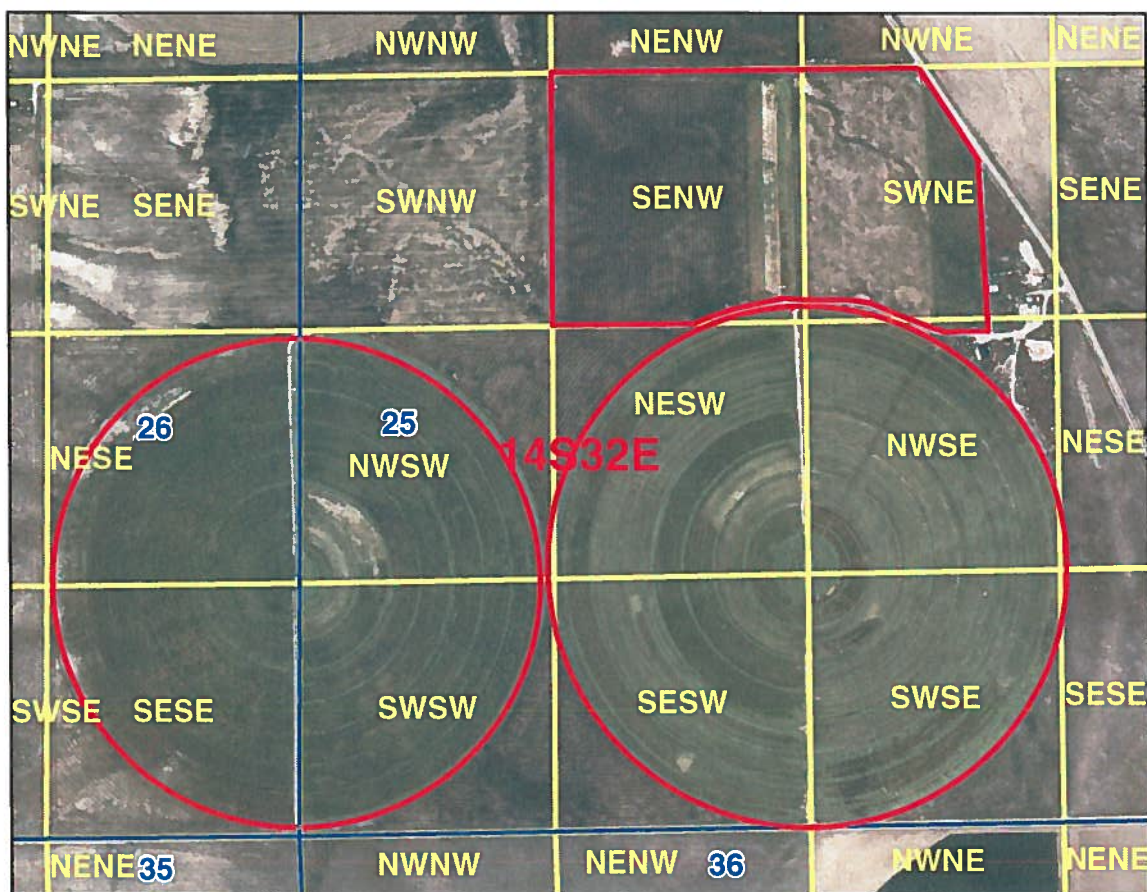
Conditions of Approval:

- THIS RT. WHEN COMBINED WITH ALL OTHER RTS. SHALL PROVIDE NO MORE THAN 3.5 AFA FOR THE LANDS ABOVE.
- 016 See remarks for additional conditions of approval.

78181

M & K Properties LLC Transfer #1

Proposed Place of Use



Legend

- Proposed POU
- Township/Range
- Sections
- QQ



FILED EFFECTIVE



ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

(Instructions on back of application)

1. The name of the limited liability company is: M & K Properties LLC
2. The address of the initial registered office is: 6605 Rimrock Drive,
Idaho Falls, Idaho 83401 and the name of the initial registered agent at that address is: Mark R. Andrews
3. The mailing address for future correspondence: 6605 Rimrock Drive,
Idaho Falls, Idaho 83401
4. Management of the limited liability company will be vested in:
Manager(s) ☐ or Member(s) ☒ . (please check the appropriate box)
5. If management is to be vested in one or more manager(s), list the name(s) and address(es) of at least one initial manager. If management is to be vested in the members, list the name(s) and address(es) of at least one initial member.

NameAddressMark R. Andrews6605 Rimrock DriveIdaho Falls, Idaho 83401

6. Signature of at least one person responsible for forming the limited liability company:

Signature Mark R. AndrewsTyped Name Mark R. AndrewsCapacity Member

Signature _____

Typed Name _____

Capacity _____

Secretary of State use only

IDAHO SECRETARY OF STATE
 12/09/2002 05:00
 CK: 2570 CT: 22233 BH: 650252
 1 @ 100.00 = 100.00 ORGAN LLC # 2
 1 @ 20.00 = 20.00 EXPEDITE C # 3

W 21693

7007 DEC -9 AM 9:33
CLERK OF STATE
STATE OF IDAHO

FILED EFFECTIVE

ARTICLES OF INCORPORATION
OF
MOUNTAIN WEST SELECT INC.

The undersigned incorporator, desiring to form a corporation pursuant to the provisions of the Idaho Business Corporation Act, adopts the following Articles of Incorporation:

ARTICLE 1. Name. The name of the corporation is Mountain West Select Inc.

ARTICLE 2. Shares. The corporation is authorized to issue 100,000 shares, all of one class.

ARTICLE 3. Registered Office and Registered Agent. The address of the corporation's initial registered office in the state of Idaho is 6605 Rimrock Drive, Idaho Falls, Idaho 83401. The name of the corporation's initial registered agent at such address is Mark R. Andrews.

ARTICLE 4. Directors. The Board of Directors shall consist of one or more directors. The number of directors constituting the initial Board of Directors is one and the name and address of the person who is to serve as director until the first annual meeting of the shareholders or until his successors are elected and qualified are:

<u>Name</u>	<u>Address</u>
Mark R. Andrews	6605 Rimrock Drive Idaho Falls, Idaho 83401

ARTICLE 5. Incorporator. The name and address of the incorporator are:

<u>Name</u>	<u>Address</u>
Mark R. Andrews	6605 Rimrock Drive Idaho Falls, Idaho 83401

ARTICLE 6. Limitation on Personal Liability of Directors. No director of the corporation shall be personally liable to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:

IDAHO SECRETARY OF STATE
12/09/2002 05:00
CK: 2569 CT: 22233 BH: 650250
1 @ 100.00 = 100.00 CORP # 2
1 @ 20.00 = 20.00 EXPEDITE C # 3

C 446558

78181

- (i) The amount of a financial benefit received by a director to which he is not entitled,
- (ii) An intentional infliction of harm on the corporation or the shareholders,
- (iii) A violation of section 30-1-833, Idaho Code, or
- (iv) An intentional violation of criminal law.

ARTICLE 7. Indemnification of Directors. The corporation shall indemnify each and every director of the corporation for liability, as defined in section 30-1-850(5), Idaho Code, to any person for any action taken, or any failure to take any action, as a director, except liability for:

- (i) Receipt of a financial benefit to which he is not entitled,
- (ii) An intentional infliction of harm on the corporation or its shareholders,
- (iii) A violation of section 30-1-833, Idaho Code, or
- (iv) An intentional violation of criminal law.

DATED this 6th day of December, 2002.

INCORPORATOR


Mark R. Andrews

Transf #1

Fee = \$500.00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 78181

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 I.
 - ☒ * 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: _____

78181