

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

SEP 13 2012

Department of Water Resources
Eastern Region

AMENDED

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued**

78071

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					
☒ ☐	34-440B	4.0 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-440B	.02 cfs	stockwater	01/01 to 12/31	Big Lost River
☒ ☐	34-638A	1.06 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-637C	1.60 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-2365	2.7cfs/430.5af	Irrigation	04/01 to 10/31	Ground water
☒ ☐	34-7239A	2.12cfs/899.9	Irrigation	04/01 to 10/31	Ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 9.64 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 4.00 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 #
No		NW	SE	SE	12	07N	23E	Custer	Big Lost River	Sharp Ditch
No		NW	SE	SW	20	07N	24E	Custer	Big Lost River	Swauger Ditch
								No Change to	Ground water POD**	

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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	28	39.6	20		15.8													75.4
07N	24E	27	35.6		26.8		11.4		36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	34		15.3															15.3

Total Acres (for irrigation use) 431

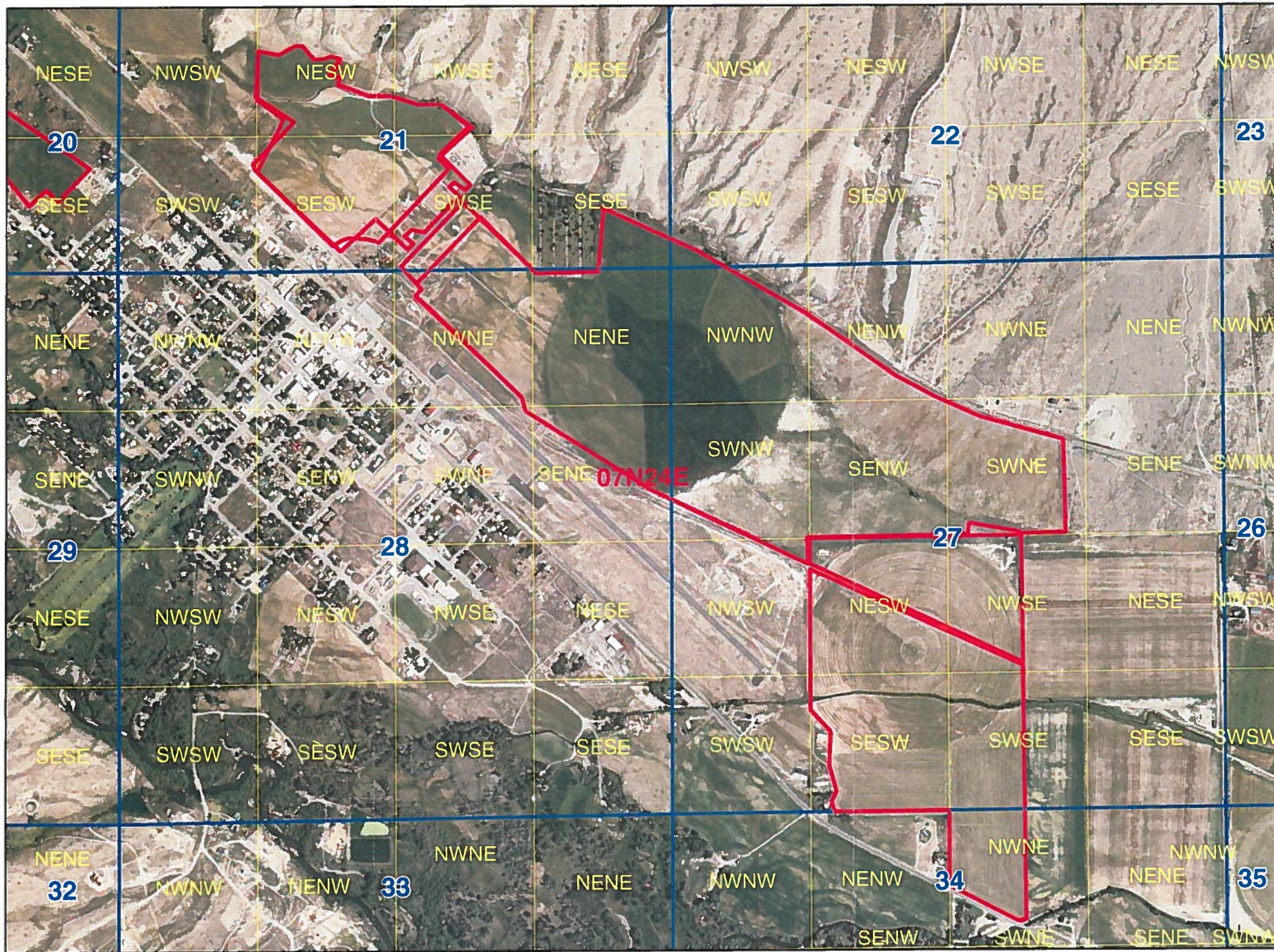
X John Powers
Signature

X Tal Roberts
Signature

9/14/12
Date

78071

78071



12082

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

78071

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) John L and Patrick PowersPhone 208-339-3358Mailing address PO Box 493 Mackay ID 83251

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 _____

Phone _____

Mailing address _____

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.

John Lloyd Powers
Signature of Applicant or Authorized Representative

JOHN LLOYD POWERS
Print Name and Title if applicable

7/31/12
Date

Patrick S. Powers
Signature of Applicant or Authorized Representative

Patrick S. Powers
Print Name and Title if applicable

7/19/12
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 _____
- 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**. This application will combine the place of use for all irrigation owned by the applicant and add one point of diversion to the surface water rights.

SCANNED

78071

AUG 08 2012

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					
☒ ☐	34-440B	4.0 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-440B	.02 cfs	stockwater	01/01 to 12/31	Big Lost River
☒ ☐	34-638A	1.06 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-637C	1.60 cfs	Irrigation	05/01 to 10/15	Big Lost River
☒ ☐	34-2365	2.7cfs/430.5af	Irrigation	04/01 to 10/31	Ground water
☒ ☐	34-7239A	2.12cfs/899.9	Irrigation	04/01 to 10/31	Ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 9.64 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 4.00 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 #
No		NW	SE	SE	12	07N	23E	Custer	Big Lost River	Sharp Ditch
No		NW	SE	SW	20	07N	24E	Custer	Big Lost River	Swauger Ditch
								No Change to	Ground water POD**	

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	
07N	24E	21									17.4			24		4.3	17.3	6.6	69.6
07N	24E	22											1.8						1.8
07N	24E	20	39.6	20		15.8													75.4
07N	24E	27		35.6	26.8		11.4		36.3	39.7	38.8	1.4		36.1		21	21.8		268.9
07N	24E	34		15.3															15.3

Total Acres (for irrigation use) _____

431

78071

SCANNED
AUG 08 2012

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:

The same measuring device is and has been in place for 50+ years including a lockable headgate

- b. Who owns the property at the point(s) of diversion? The property for the ground water POD's are owned by the 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:

There is no change to the land, this application combines the place of use for all of the rights.

- 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:

All of the water rights associated with this property are included in the transfer application.

- 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:

78071

SCANNED
AUG 08 2012

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**.

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.:

I use the well when surface rights are expended

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by Km Date 8-2-2012 Prelim. Check by _____ Date _____

Fee Paid 820.00 Date 8-2-2012 Receipted by Km Receipt # E037860

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

SCANNED

78071

AUG 08 2012

Page _____ of _____

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

Current Water Right No.: 34-440B

Current Owner: JOHN L POWERS

Priority Date: 4/22/1884

Origin: Water Right

Status: Active

Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

From To

Diversion Rate

Annual Volume

STOCKWATER

1/01 to 12/31

0.02 CFS

IRRIGATION

5/01 to 10/15

4 CFS

Total Diversion

4 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

NW1/4NW1/4SE1/4

Sec. 12, Twp 07N, Rge 23E B.M.

CUSTER County

Place of Use

IRRIGATION Within CUSTER County

T07N R24E S21	NESW	22.00	T07N R24E S21	SESW	20.00
T07N R24E S21	NWSE	6.00	T07N R24E S21	SWSE	12.00
T07N R24E S21	SESE	7.00	T07N R24E S22	SWSW	1.00
T07N R24E S27	SWNE	24.00	T07N R24E S27	NENW	13.00
T07N R24E S27	NWNW	34.00	T07N R24E S27	SWNW	37.00
T07N R24E S27	SENW	39.00	T07N R24E S27	NESW	2.00
T07N R24E S28	NENE	39.00	T07N R24E S28	NWNE	19.00
T07N R24E S28	SENE	17.00			

Total Acres: 292

Place of Use: STOCKWATER same as IRRIGATION

SCANNED
AUG 08 2012

78071

Page _____ of _____

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.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
4. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
5. WATER IS DELIVERED THROUGH THE SHARP DITCH. STOCKWATER, 500 SHEEP, 50 CATTLE.
6. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
7. N15 THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

Decreed Date: 6/4/2001

78071

SCANNED
AUG 08 2012

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

Current Water Right No.: 34-637C

Current Owner: JOHN POWERS
PATRICK POWERS

Priority Date: 6/1/1888

Origin: Water Right

Status: Active

Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

1.6 CFS

Annual Volume

Total Diversion

1.6 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

NW1/4NW1/4SE1/4

Sec. 12, Twp 07N, Rge 23E B.M.

CUSTER County

BIG LOST RIVER

SW1/4NE1/4SW1/4

Sec. 20, Twp 07N, Rge 24E B.M.

CUSTER County

Place of Use

IRRIGATION Within CUSTER County

T07N R24E S27	NESW	37.00	T07N R24E S27	SESW	35.00
T07N R24E S27	NWSE	19.00	T07N R24E S27	SWSE	19.00
T07N R24E S34	NWNE	13.00			

Total Acres: 123

78071

SCANNED
AUG 08 2012

Page _____ of _____

Conditions of Approval:

1. THE APPROPRIATOR IS ENTITLED TO THE AMOUNT DESCRIBED ABOVE AT THE POINT OF MEASUREMENT IN T07N, R24E, S28, NESWSE, WHEN WATER IS DIVERTED AT THE POINT OF DIVERSION IN T07N, R24E, S20, SWNESW. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.52 CFS.
COMBINED RIGHT NOS.: 34-00638A AND 34-02365.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00638A AND 34-02365.
4. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
5. WATER IS DELIVERED THROUGH EITHER THE SWAUGER DITCH OR THE SHARP DITCH.
6. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

Decreed Date: 12/14/2001

78071

SCANNED
AUG 08 2012

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

Current Water Right No.: 34-638A

Current Owner: JOHN POWERS
PATRICK POWERS

Priority Date: 10/12/1884

Origin: Water Right

Status: Active

Basis: Decreed

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

1.06 CFS

Annual Volume

Total Diversion

1.06 CFS

Location of Point(s) of Diversion

BIG LOST RIVER

CUSTER County

NW1/4NW1/4SE1/4

Sec. 12, Twp 07N, Rge 23E B.M.

BIG LOST RIVER

CUSTER County

SW1/4NE1/4SW1/4

Sec. 20, Twp 07N, Rge 24E B.M.

Place of Use

IRRIGATION Within CUSTER County

T07N R24E S27	NESW	37.00	T07N R24E S27	SESW	35.00
T07N R24E S27	NWSE	19.00	T07N R24E S27	SWSE	19.00
T07N R24E S34	NWNE	13.00			

Total Acres: 123

SCANNED
AUG 08 2012

78071

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. 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.
4. WATER IS DELIVERED THROUGH EITHER THE SWAUGER DITCH OR THE SHARP DITCH.
5. THE APPROPRIATOR IS ENTITLED TO THE AMOUNT DESCRIBED ABOVE AT THE POINT OF MEASUREMENT IN T07N, R24E, S28, NESWSE, WHEN WATER IS DIVERTED AT THE POINT OF DIVERSION IN T07N, R24E, S20, SWNESW. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.52 CFS.
COMBINED RIGHT NOS.: 34-00637C AND 34-02365.
6. USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00637C AND 34-02365.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 53 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Decreed Date: 12/14/2001

78071

SCANNED
AUG 08 2012

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

Current Water Right No.: 34-2365

Current Owner: JOHN POWERS
PATRICK POWERS

Priority Date: 5/4/1960

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	2.7 CFS	430.5 AF
	<u>Total Diversion</u>	2.7 CFS	430.5 AF

Location of Point(s) of Diversion

GROUND WATER NW1/4NW1/4SE1/4 Sec. 27, Twp 07N, Rge 24E B.M.
CUSTER County

Place of Use

IRRIGATION Within CUSTER County

T07N R24E S27	NESW	37.00	T07N R24E S27	SESW	35.00
T07N R24E S27	NWSE	19.00	T07N R24E S27	SWSE	19.00
T07N R24E S34	NWNE	13.00			
Total Acres: 123					

Conditions of Approval:

1. WATER CAN BE DELIVERED THROUGH THE SWAUGER DITCH.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00637C AND 34-00638A.
3. 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.
4. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.52 CFS.
COMBINED RIGHT NOS.: 34-00637C AND 34-00638A.

78071

SCANNED
AUG 08 2012

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

Current Water Right No.: 34-7239A

Current Owner: JOHN L POWERS TRUST
Priority Date: 1/22/1980
Origin: Water Right
Status: Active
Basis: License

Source

GROUND WATER
GROUNDWATER

Tributary

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	2.12 CFS	899.9 AF
	<u>Total Diversion</u>	2.12 CFS	899.9 AF

Location of Point(s) of Diversion

GROUNDWATER	NE1/4NE1/4	Sec. 28,	Twp 07N,	Rge 24E B.M.
CUSTER County				
GROUND WATER	NE1/4SW1/4	Sec. 21,	Twp 07N,	Rge 24E B.M.
CUSTER County				

Place of Use

IRRIGATION Within CUSTER County

T07N R24E S21	NESW	18.00	T07N R24E S21	SESW	25.00
T07N R24E S21	NWSE	6.00	T07N R24E S21	SWSE	17.00
T07N R24E S21	SESE	7.00	T07N R24E S22	SWSW	2.00
T07N R24E S27	SWNE	25.00	T07N R24E S27	NENW	11.00
T07N R24E S27	NWNW	36.00	T07N R24E S27	SWNW	36.00
T07N R24E S27	SENE	39.00	T07N R24E S27	NWSW	2.00
T07N R24E S28	NENE	39.00	T07N R24E S28	NWNE	19.00
T07N R24E S28	SENE	17.00			

Total Acres: 299

78071

SCANNED
AUG 08 2012

Page _____ of _____

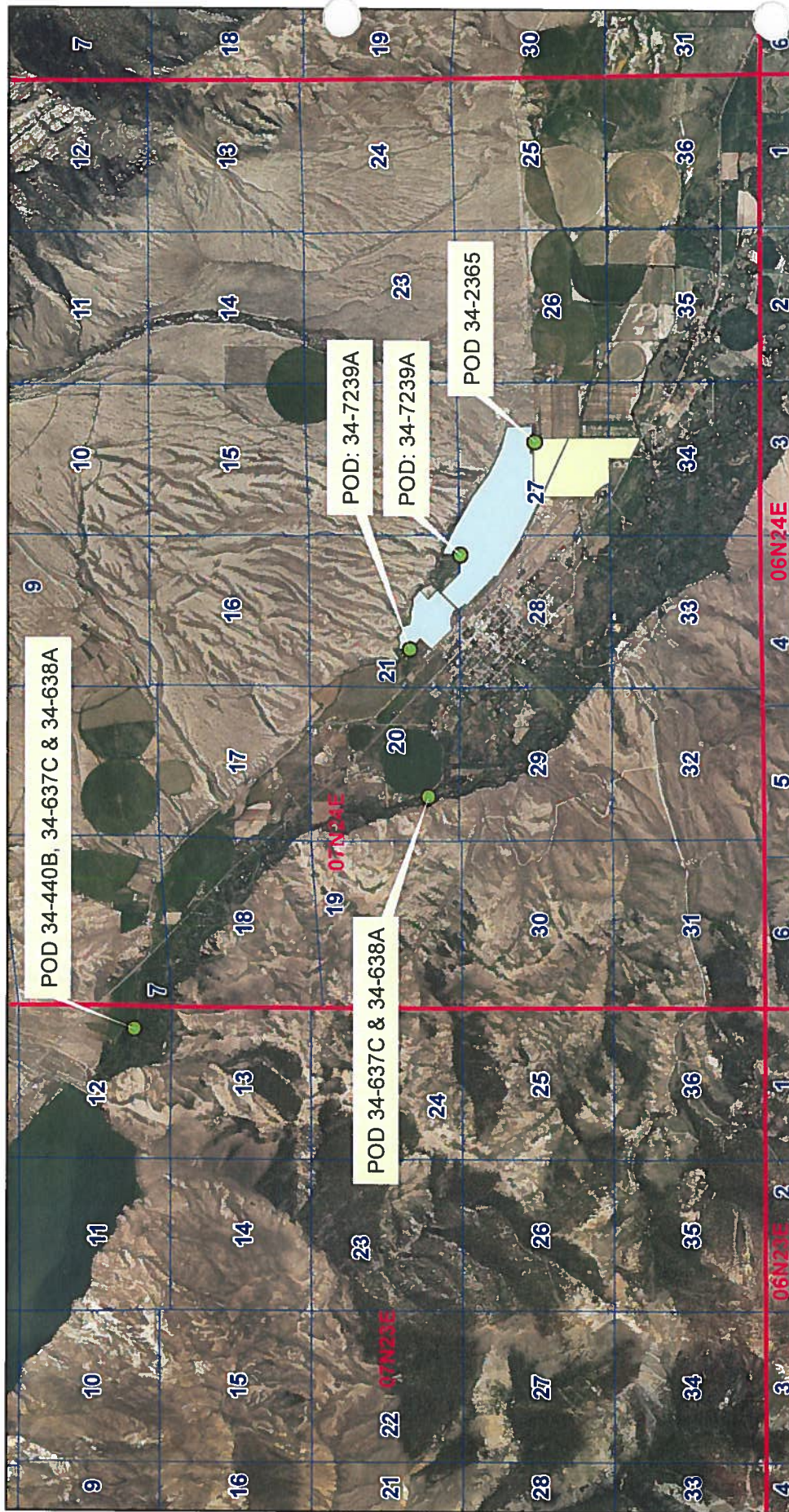
Conditions of Approval:

1. 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.
2. 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.
3. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. 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.
5. 104 If Right 34-440B is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used to irrigate more than 16 acres without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
6. 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.
7. X35 Rights 34-440B and 34-7239A when combined shall not exceed a total annual maximum diversion volume of 1078 af at the field headgate and the irrigation of 308 acres.
8. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. 065 The right holder shall make full beneficial use of Right 34-440B for irrigation of 283 acres of land authorized to be irrigated under this right. The right holder shall limit the diversion of ground water to irrigate more than 16 acres under this right to those times when Right 34-440B is not available or Right 34-440B is not reasonably sufficient to irrigate 283 acres of its place of use that correspond to the place of use for this right.
10. 214 Prior to the diversion and use of water under Transfer approval 77186, 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.
11. 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. 34.
12. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Licensed Date: 3/1/2010

SCANNED
AUG 08 2012

78071



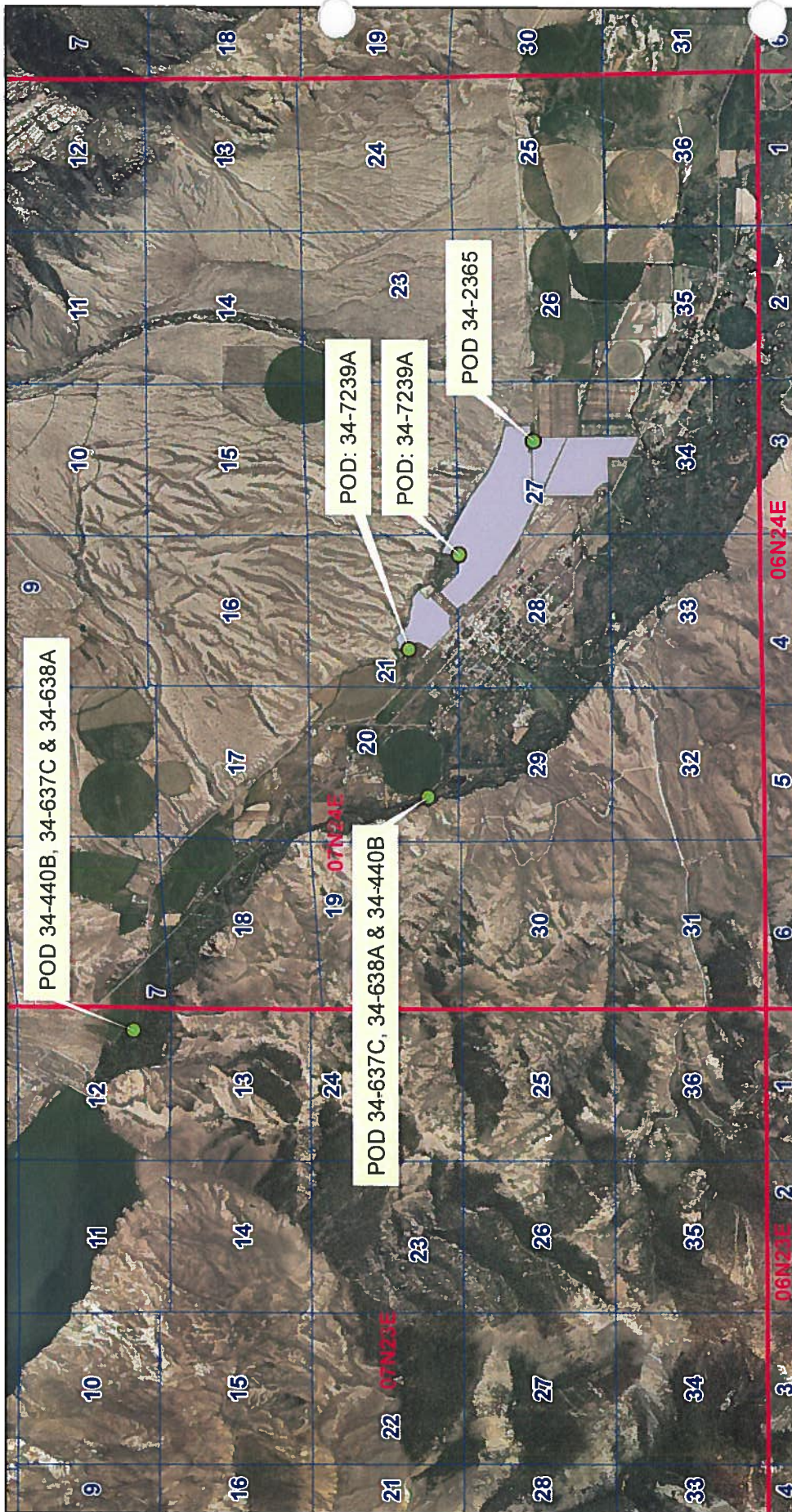
John Powers

- 34-440B, 34-7239A
- 34-638A, 34-637C, 34-2365
- Township/Range
- Sections

SCANNED
AUG 08 2012

78071





All of the above is correct

John Powers



- New_Place_of_Use
- Township/Range
- Sections

SCANNED
AUG 08 2012

78071

RECORDED AT THE REQUEST OF
AND WHEN RECORDED MAIL TO:

John Lloyd Powers
P. O. Box 493
Mackay, ID 83251

02111
Custer County Rec. of

Terrill Howard

Time 4:55 P.M.

6-5 1996

Ethel M. Peck, Clerk

Wendy Murphy
Deputy

152

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

CERTIFICATION OF TRUST AND TRUSTEE'S POWERS

JOHN LLOYD POWERS hereby certifies and declares as follows:

- (1) JOHN LLOYD POWERS has established a living trust named THE JOHN LLOYD POWERS TRUST, pursuant to a Declaration of Trust and Trust Agreement dated effective the 15th day of April, 1996 (hereafter referred to as the "Trust Agreement").
- (2) The currently acting Trustee of said trust is JOHN LLOYD POWERS.
- (3) The Trust Agreement provides that upon the resignation, death, or incapacity of the Trustee, the Successor Co-Trustees automatically succeed to the office of Trustee. The names of the Successor Co-Trustees are PATRICK SEAN POWERS and MARY B. ROSENKRANCE, and if either of such persons shall at any time be unable or unwilling to act in such capacity the remaining Successor Co-Trustee serves as sole Trustee.
- (4) The trust is a revocable trust and the Grantor may revoke the trust at any time. No other party holds the power to revoke the trust.
- (5) THE JOHN LLOYD POWERS TRUST is a "Grantor Trust" within the meaning of such term as used in the Internal Revenue Code, and all items of income and loss will be reported for tax purposes under the personal social security number of the Grantor so long as Grantor is living and acts as Trustee or Co-Trustee of the trust. No separate tax identification number will be provided for the trust so long as it continues its status as a "Grantor Trust".
- (6) The manner in which title to trust assets should be taken is as follows:

JOHN LLOYD POWERS, as Trustee of THE JOHN LLOYD POWERS TRUST.
- (7) The following is a true and correct copy of the provisions of Paragraph 7.1 of Article 7 of the Trust Agreement:

ARTICLE 7

PROVISIONS RELATING TO TRUSTEE AND SUCCESSOR TRUSTEE

7.1 **Powers of Trustee.** In addition to, and not in limitation of, any powers conferred upon all trustees by any applicable statute or general rules of law, Trustee shall have all of the powers, and is expressly authorized in Trustee's sole and absolute discretion to do and perform all of the acts and things, that are more fully detailed and set forth upon the attachment to this Trust Agreement captioned "POWERS OF TRUSTEE", the provisions of which are by this reference incorporated herein and made a part hereof. Whenever the office of Trustee is held by Co-Trustees, the Co-Trustees may exercise such power and authority in the manner described in Paragraphs 25 and 26 of the said "POWERS OF TRUSTEE".

THE JOHN LLOYD POWERS TRUST
Certification of Trust and Trustee's Powers

Page 1
SCANNED

78071

AUG 08 2012

- (8) The following is a true and correct copy of the "POWERS OF TRUSTEE" attached to, and incorporated by reference in, the Trust Agreement pursuant to the provisions of said Paragraph 7.1 of Article 7:

POWERS OF TRUSTEE

The term "Grantor" as used herein shall be construed to include "Grantors" if there are two or more Grantors.

1. **Retention of Existing Investments.** To retain and hold in or as a part of the trust estate any investment or other property acquired from Grantor or Grantor's estate, with full power, nevertheless, to change and vary the form of any investment from time to time as the Trustee shall deem best.

2. **Operation of Business Owned by Grantor.** To continue and operate any business owned by Grantor and to do all things deemed advisable in connection therewith, including the power to incorporate or otherwise change the form of the business and to put additional capital into it, as Trustee may deem best.

3. **Management and Operation of Real Estate.** To manage, operate, repair and improve, and to rent or lease, regardless of the length of the term, any real estate forming a part of the trust estate. Trustee shall have the power to do all things necessary or advisable in connection with the management and operation of any farm or ranch properties, and any natural resource properties.

4. **Investments.** To open and maintain accounts with stock brokerage firms, and to execute all documents necessary for the opening and maintenance thereof, and on behalf of the Trust to invest the trust estate in, and to buy, sell, and trade:

a. Stocks, bonds, notes, options (including puts and calls, and whether or not covered by like securities held in the brokerage account), and other securities of any nature (including short sales, and sales on margin), and for such purposes Trustee may maintain and operate margin accounts with brokers, and may borrow money from any brokerage firm and pledge any securities held or purchased by Trustee to such brokers as security for loans and advances made to the Trustee; and

b. Any other real or personal property, including (but not limited to) precious metals or stones, commodities and commodity interests, interests in oil, gas, and mineral wells, mines, and leases, shares or interests in investment trusts and common trust funds, leaseholds or undivided fractional interests in real estate, and interests in general or limited partnerships;

as Trustee may deem advisable, even though such investments may not be of the character generally deemed permissible for investments by fiduciaries. Investments need not be diversified and may be made or retained with a view to possible increase in value. Trustee may at any time hold cash or readily marketable securities of low yield for such period as Trustee may deem advisable. The Trustee is authorized to appoint one or more investment managers to manage all or any part of the assets of the Trust, and to pay reasonable compensation to any such investment manager. Trustee may delegate to an investment manager the power to acquire and dispose of assets, and investment discretion.

5. **Exercise of Conversion Rights.** To exercise any rights and privileges to convert investments or other property into other investments or other property and to subscribe for additional securities, and to hold any assets so acquired as investments of the trust estate.

6. **Voting of Securities.** To vote in person or by proxy on any stocks or other securities held by Trustee.

7. **Registration of Securities or Property.** To cause to be registered in Trustee's name, individually or as Trustee, or in the name of a nominee, any securities or other property from time to time held by Trustee, or to take and keep them unregistered, and to retain them or any part thereof in such condition that they will pass by delivery.

8. **Corporate Transactions.** To join in, or to dissent from and to oppose, the reorganization, recapitalization, consolidation, sale or merger of corporations or properties in which Trustee may be interested as Trustee upon such terms and conditions as Trustee may deem wise, and to accept any securities which may be issued upon any such reorganization, recapitalization, consolidation, sale or merger, and thereafter to hold the same.

9. **Purchase, Sale and Disposition of Property.** To purchase, sell, exchange, convey or dispose of, or to acquire or grant options with respect to, any property, real or personal, and any purchase or sale may be made by private contract or by public auction, and for cash or upon credit, or partly for cash and partly upon credit, as Trustee may deem best, and no person dealing with Trustee shall be bound to see to the application of any monies paid.

10. **Right to Borrow and Provide Security.** To borrow money from any financial institution or source of financing deemed appropriate by Trustee, for any purpose connected with the protection, preservation or improvement of the trust estate, whenever in Trustee's judgment advisable, and as security therefor to encumber or pledge any property forming a part of the trust estate upon such terms and conditions as Trustee may deem advisable. Trustee shall have the power to expend funds of the trust estate for the purpose of repayment of indebtedness secured by encumbrance or pledge of property forming a part of the trust estate. Trustee may pledge or encumber assets of the trust estate to collateralize the loans or other obligations of any Grantor or other beneficiary hereunder and may act as a co-borrower or guarantor with respect to loans and obligations of Grantor or any other beneficiary hereunder.

11. **Right to Make Conveyances and Encumbrances.** To make, execute, acknowledge and deliver any and all deeds, leases, and assignments and other legal instruments necessary or proper to carry out the provisions of this Agreement; and to pledge, mortgage and encumber any and all assets of the trust estate for any purpose, at any time, from time to time, on any terms and in any manner as the Trustee may, in Trustee's sole discretion, deem advisable and appropriate.

12. **Loans to Grantor's Estate.** To lend funds of the trust estate to Grantor's estate, upon such terms and conditions as Trustee shall approve.

13. **Life Insurance Policies.** To acquire as an asset of the trust estate one or more life insurance policies on the lives of any persons to whom the income of the trust is then payable, or on the life of any person in whom such income beneficiary has an insurable interest, from such companies and in such amounts as Trustee may deem advisable; to pay premiums on all policies, from income or principal or both (other than income or principal of the Survivor's Trust, if any such Trust be established hereunder), as Trustee may determine and any such Insurance shall be payable to, and all incidents of ownership shall be vested in, Trustee.

14. **Insurance Proceeds; Options.** To permit the proceeds of any insurance policy payable to Trustee, or any part of such proceeds, to remain with the company under any option available under the terms of such policy, and Trustee shall not be liable for any loss resulting to the trust estate by reason of having permitted such retention.

15. **Establishment of Reserves.** To establish, from rents, profits and other income, such reserves for taxes, assessments, insurance, repairs, improvements, depreciation and maintenance of buildings and other property, as Trustee shall deem advisable and consistent with the purposes of Grantor.

16. **Distribution in Cash or Property.** Except as otherwise expressly provided elsewhere herein, to make any division or distribution in cash or in kind, or partly in cash and partly in kind, on the basis of market values at the time of such division or distribution, or if there be no recognized market value, at the fair value thereof. Any determination of recognized market value or fair value of any security or property made by Trustee for the purposes hereof shall be deemed presumptively correct.

17. **Payment of Expenses.** To pay any and all expenses, costs, fees (including Trustee's own fees), taxes, penalties or other charges and except as otherwise expressly provided herein to charge the same against principal or income or partly against the principal and partly against the income of the whole or any part of any trust.

18. **Allocations Between Principal and Income.** To determine, in case of doubt, how any money or other property received, or any gain or loss realized or incurred, shall be allocated as between income and principal, and to apportion between income and principal any loss or expenditure in connection with the trust estate, as Trustee may deem just, except that: (1) in the case of securities purchased at a discount the entire subsequent sale price or maturity value shall be credited to principal; (2) in the case of securities purchased at a premium, the premium shall be charged against principal without amortizing the same. Only the interest component of installment payments received on notes or contracts receivable shall be deemed to be income.

19. **Reliance on Furnished Information.** To rely upon any information, affidavit, certificate, letter, notice, telegram, or other document, or upon any telephone conversation believed by Trustee to be genuine and sufficient.

20. **Employment of Others.** To employ agents, attorneys, investment advisors, and other persons whose services may be required or advisable in the administration of the trust estate and to pay them reasonable compensation.

21. **Arbitration of Differences.** To submit to final arbitration any matter of difference with others.

22. **Settlement and Enforcement of Claims.** To compromise, compound and settle any obligation due to or from the trust estate (including Grantor's estate where appropriate); to reduce the rate of interest on, and to extend or otherwise modify, or to foreclose upon default or otherwise enforce, any such obligation; to enforce or to abstain from the enforcement of any right, obligation or claim; and to abandon, if in Trustee's absolute discretion Trustee shall deem it advisable, any property, real or personal, which may at any time form a part of the trust estate and of the beneficiaries thereof, either before or after default.

23. **Depositories and Investment of Cash.** To create and maintain and invest in savings accounts, checking accounts, certificates of deposit, money market funds, and all other forms of cash reserves and deposits, including safety deposit boxes, whether or not interest bearing, and to maintain said cash accounts and reserves with any institution or depository deemed appropriate by the Trustee. If the office of Trustee is held by Co-Trustees, and all Co-Trustees shall so instruct the depository, checks and withdrawals may be signed and made by any one Co-Trustee without the co-signature of any other Co-Trustee. Such accounts and deposits shall be titled in the name or names designated by the Trustee.

24. **Deputy Trustees.** To appoint a Deputy Trustee or Deputy Trustees, to function as would the Trustee in connection with any cash accounts or reserves including the authority to make deposits to and withdrawals from such cash accounts and reserves. All Deputy Trustees shall serve at the pleasure of the Trustee, and may be removed from office by the Trustee at any time, for any reason deemed sufficient by the Trustee.

25. **Delegation of Powers to Certain Co-Trustees.** Whenever the office of Trustee is held by Co-Trustees, the Co-Trustees may by unanimous written agreement delegate the authority and responsibility for exercise of certain of these powers, and the authority to perform certain duties and responsibilities of the Trustee (including but not limited to the signing of checks; providing orders to securities brokers or investment advisors, and the execution of any documents) to one or more designated Co-Trustees. Any document executed by fewer than all of the Co-Trustees in conformity with the provisions of this Paragraph shall be binding upon this Trust, its Trustee, its trust estate, and all beneficiaries hereunder. Whenever evidence of delegation of authority under the provisions of this Paragraph has been furnished to a party, such party may thereafter, until and unless written notice to the contrary from any Grantor or Co-Trustee is actually received by such party, conclusively presume that all acts and transactions of the Co-Trustee or Co-Trustees to whom such authority was delegated (so long as they are within the scope of the delegation of authority) have in all respects been duly and regularly authorized and all consents required under the provisions of Paragraph 26 below with respect to such acts and transactions have been properly obtained.

26. **Exercise of These Powers by Co-Trustees.** Whenever the office of Trustee is occupied by two Co-Trustees, such Co-Trustees must exercise the powers of Trustee by unanimous consent. If at any time the office of Trustee shall be held by more than two Co-Trustees, and such Co-Trustees shall be unable to agree with respect

20071

to any matter relating to the administration of this Trust, the decision and actions of a majority of the Co-Trustees shall be controlling.

- (9) No other provisions of said Trust Agreement vary, modify, or limit the provisions set forth herein. The trust has not been revoked, modified, or amended in any manner to make the statements in this certification incorrect.

DATED this 31 day of April, 1996.

John L. Powers
JOHN LLOYD POWERS

STATE OF IDAHO)
COUNTY OF Ada) ss.

On this 31st day of April, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN LLOYD POWERS, known or identified to me to be the person whose name is subscribed to the foregoing instrument individually and as Trustee of THE JOHN LLOYD POWERS TRUST, and acknowledged to me that he executed the same individually and as such Trustee.

Harold D. Harrod
Notary Public for Idaho
Residing at: Bonanza, Idaho
Comm. Expires: 10-14-99



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

78071

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: _____

SCANNED**AUG 08 2012****78071**