

RECEIVED

FEB 02 2011

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 77039**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. Part 2B forms are available on the Department's website at: http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/PDFs_09/WaterRight_TransferApp_Part2B.pdf.
- ☒ * 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.
- ☐ ☒ #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/wrt_default.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.)
- ☐ ☒ #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: _____

* See comments included as Attachment 2b

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 77039

FEB 02 2011

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

WATER RESOURCES
WESTERN REGION
Name of Applicant(s) Sands, LLC

Phone 208-793-4420

Mailing address c/o Steve Loomis, 7154 W. State St., #187, Boise, ID 83714

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 Jerry A. Kiser

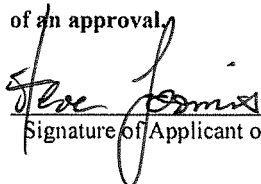
Phone 208-336-1020

Mailing address 620 W. Hays St., Boise, ID 83702

Email jkiser@stoppelloandkiser.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

Member, SANDS LLC
Print Name and Title if applicable

1/31/2011
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. As authorized by the attached court judgement and water rights warranty deed, the diversion points and place of use under water right 65-2035 and the re-diversion points and place of use under water right 65-11141 are proposed for change.

* See comments included as Attachment 2b

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 ☒ ☐	65-2035	0.42 cfs	Irrigation	4/1 to 11/1	Unnamed Stream/Robbs Cr.
☒ ☐	65-11141	32.0 ac-ft	Irrigation from Storage	4/1 to 11/1	Home Lake/Robbs Cr.
☐ ☐				to	Siphon Lakes/Robbs Cr.
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.42 cfs and/or 32.0 ac-ft

2. Total amount of water proposed to be transferred or changed 0.42 cubic feet per second and/or 32.0 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	Tw	Rge	County	Source	Local name or tag #
No			NE	SW	8	6N	2E	Boise	Home Lake	65-11141
No			SW	SW	8	6N	2E	Boise	Siphon Lakes	65-11141
Yes			SW	NE	8	6N	2E	Boise	Diversion and Re-Diversion	65-2035 & 65-11141
Yes			SE	NW	8	6N	2E	Boise	Diversion and Re-Diversion	65-2035 & 65-11141
Yes			NE	SW	8	6N	2E	Boise	Diversion and Re-Diversion	65-2035 & 65-11141

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	
6N	2E	8			6					10.5	14.5								30

Total Acres (for irrigation use) 21 w/i 30-ac ppu

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

Current Water Right No.: 65-11141

Current Owner: IVA E WEBSTER
JOE A WEBSTER

Priority Date: 6/1/1896

Origin: Water Right

Status: Active

Basis: Decreed

Source		Tributary	
HOME LAKE		ROBBS CREEK	
Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION FROM STORAGE	04/01 to 11/01		32 AF
	Total Diversion		32 AF
Location of Point(s) of Diversion			
SIPHON LAKES		SW1/4SW1/4	Sec. 8, Twp 06N, Rge 02E B.M.
BOISE County			
HOME LAKE		NE1/4SW1/4	Sec. 8, Twp 06N, Rge 02E B.M.
BOISE County			
SIPHON LAKES		NE1/4NE1/4	Sec. 8, Twp 06N, Rge 02E B.M.
BOISE County		(Rediversion)	
SIPHON LAKES		NE1/4NW1/4	Sec. 9, Twp 06N, Rge 02E B.M.
BOISE County		(Rediversion)	

Place of Use

IRRIGATION FROM STORAGE Within BOISE County

T06N R02E S4	SWSW	1.00	T06N R02E S4	SESW	7.00
T06N R02E S9	NENW	3.00	T06N R02E S9	NWNW	10.00

Total Acres: 21

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.

Decreed Date: 7/18/2002

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: Water will be diverted by gravity feed and/or by irrigation pumps from Siphon Lakes, Home Lake, and from an unnamed stream tributary to Robbs Creek. Gravity diversion will be controlled and measured by headgate. Flow meter(s) can be installed if pumps are used.

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: No

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: The land currently authorized for irrigation will be taken out of production.

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: None

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: Applicant acquired the property where the subject rights were originally used and decreed in 2004. That same year, Applicant sold the property, reserved the water rights. When a transfer application was attempted in 2007, the individuals who purchased the real property claimed ownership of the reserved rights resulting in litigation. On December 2, 2010, Judgment was entered in the District Court, in and for the County of Boise, Case No. 2008-255, decreeing applicant as owner of the water rights subject to this application. See Application Attachment 2a.

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

Current Water Right No.: 65-2035

Current Owner: IVA E WEBSTER
JOE A WEBSTER

Priority Date: 9/26/1905

Origin: Water Right

Status: Active

Basis: Decreed

Source
UNNAMED STREAM

Tributary
ROBBS CREEK

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	to 11/01	0.42 CFS	
	Total Diversion		0.42 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM BOISE County	SW1/4SW1/4	Sec. 4,	Twp 06N,	Rge 02E B.M.
UNNAMED STREAM BOISE County	NW1/4NW1/4	Sec. 9,	Twp 06N,	Rge 02E B.M.
UNNAMED STREAM BOISE County	NE1/4NE1/4	Sec. 8,	Twp 06N,	Rge 02E B.M.

Place of Use

IRRIGATION Within BOISE County

T06N R02E S4	SWSW	1.00	T06N R02E S4	SESW	7.00
T06N R02E S9	NENW	3.00	T06N R02E S9	NWNW	10.00

Total Acres: 21

Conditions of Approval:

1. B01 SOURCE IS ALSO KNOWN AS WEBSTER CREEK.
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.

Decreed Date: 6/28/2002

Rev. 10/09
Page 8 of 8

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.)

- ☒ 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 on Part 3B above.:

[illegible]

FOR DEPARTMENT USE ONLY

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and 4 attachments. (17 pages)

Received by SB Date 2-2-11 Prelim. Check by VLM Date 1-17-12

Fee Paid \$500- Date 2-2-2011 Received by DB Receipt # W038970

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

ATTACHMENT 2a
WATER RIGHT OWNERSHIP DOCUMENTATION

p. 1 of 6
2a

Instrument # 199332

IDAHO CITY, BOISE COUNTY, IDAHO

2004-11-10

04:37:34 No. of Pages: 2

Recorded for: SANDS LLC

RORA A. CANODY

Ex-Officio Recorder Deputy

Index to: DEEDS

Fee: 6.00

WARRANTY DEED

FOR VALUE RECEIVED, DR&J INVESTMENTS LIMITED PARTNERSHIP, a Nevada limited partnership, the Grantor, does hereby grant, bargain, sell, and convey unto SANDS LLC, an Idaho limited liability company, Grantee, whose current address is 7145 W. State St #187, Boise, Idaho 83703, the following water rights as they are described on the records of the Idaho Department of Water Resources: #65-02035, #65-03504, and #65-11141.

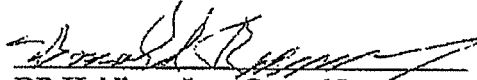
Along with all easements, rights-of-way, and existing and natural watercourses associated with said water rights.

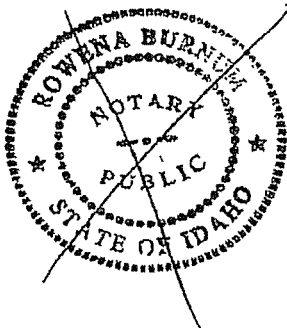
To have and to hold the said water rights, together with said easements, rights-of-way, and existing and natural watercourses, unto the said Grantee, its heirs and assigns forever. And the said Grantor hereby covenants to and with said Grantee, that it is the owner in fee simple of said water rights and appurtenances; that the said water rights and appurtenances are free from all encumbrances; and, that it will warrant and defend the same from all lawful claims whatsoever.

DATED this 8th day of Nov., 2004.

DR&J INVESTMENTS LIMITED PARTNERSHIP,
a Nevada Limited Partnership

By:


DR Holdings, Inc., General Partner,
Donald J. Rumsey, President



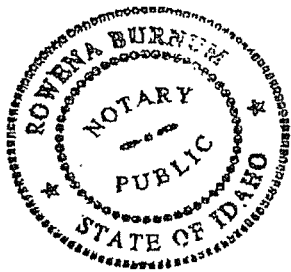
p. 2 of 6

2a

STATE OF IDAHO,)
) ss.
County of Ada,)

On this 8th day of Nov., 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared **DONALD J. RUMSEY**, known and/or identified to me to be President of DR Holdings, Inc., the corporation which is a general partner of the partnership of DR&J Investments Limited Partnership, and subscribed said partnership name to the foregoing instrument and acknowledged to me that he executed the same in said partnership name.

WITNESS MY HAND AND OFFICIAL SEAL.





NOTARY PUBLIC for Idaho
My Commission Expires: 6-10-2006

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DISTRICT COURT BOISE COUNTY, IDAHO
Recorded in Book _____ Page _____

Filed Oct 30 2010 No 3004
By CONSTANCE SWEARINGEN, Clerk
DEPUTY

Jerry A. Kiser
STOPPELLO & KISER
ATTORNEYS AT LAW
620 West Hays Street
Boise, Idaho 83702
Telephone: (208) 336-1020
Facsimile: (208) 336-1027
Idaho State Bar No. 3719

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BOISE

SANDS LLC, an Idaho limited
liability company,

Plaintiff/
Counterdefendant,

-vs-

TIMOTHY S. SWENSON and
JENNIFER SWENSON, Husband
and Wife; ALL PERSONS
CLAIMING ANY RIGHT, TITLE,
ESTATE, LIEN OR INTEREST IN
IDAHO STATE WATER RIGHT NOS.
65-02035; 65-03504; and,
65-11141,

Defendants/
Counterclaimants.

Case No. CV-2008-255

JUDGMENT

This Court having entered Findings of Fact and Conclusions
of Law on October 13, 2010, which Findings and Conclusions
determined that SANDS LLC is entitled to a decree quieting title
in and to State of Idaho Water Right Nos. 65-02035; 65-03504;
and, 65-11141.

JUDGMENT - 1.

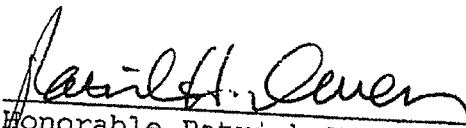
p. 4 of 6

2a

NOW, THEREFORE, IT IS HEREBY DECREED AND ADJUDGED that Plaintiff, SANDS LLC, is the owner in fee simple of water right nos. 65-02035; 65-03504; and, 65-11141, records of the Idaho Department of Water Resources and is entitled to quiet and peaceful possession of said water rights, and that the Defendants above-named, and each of them, and all persons claiming by, under, or through them, are hereby decreed to have no estate, right, title, lien, or interest in or to the water rights or any part thereof, and Defendants are permanently barred and enjoined from asserting any claim, right, title, or interest in said water rights, or from asserting any adverse claim to Plaintiff's title and ownership of said real property water rights.

IT IS FURTHER ORDERED, ADJUDGED AND DECREE that Judgment be and hereby is entered in favor of Plaintiff and against Defendant on Defendants' Counterclaim.

DATED this 1 day of ^{December}~~November~~, 2010.



Honorable Patrick H. Owen
District Judge

CERTIFICATE OF MAILING

I, Constance Swearingen, the undersigned authority, do hereby certify that I have mailed, by United States Mail, a true and correct copy of the within instrument as notice pursuant to Rule 77(d) I.R.C.P. to each of the attorneys of record in this cause in envelopes addressed as follows:

JERRY A. KISER
STOPPELLO & KISER
ATTORNEYS AT LAW
620 WEST HAYS STREET
BOISE, IDAHO 83702

DAVID W. LLOYD
CUMMINGS LAW OFFICE
412 EAST PARK CENTER BLVD. STE 325
POST OFFICE BOX 1545
BOISE, IDAHO 83701

CONSTANCE SWEARINGEN
Clerk of the District Court
Boise County, Idaho

Date: 12/3/10

By 
Deputy Clerk

ATTACHMENT 2b

PROPOSED PPU OWNERSHIP DOCUMENTATION

***COMMENT.** Applicant currently owns the water rights the subject of this Application as reflected in Attachment #2a. Therefore, the proposed transfer to the new place of use will not result in a change of ownership of the water rights. Proof of ownership of the land at the new place of use is attached as Attachment 2b.

Instrument # 200784
IDAHO CITY, BOISE COUNTY, IDAHO
2005-02-16 04:02:42 No. of Pages: 8
Recorded for : ALLIANCE TITLE
RORA A. CANODY Fee: 24.00
Ex-Officio Recorder Deputy R. A. Canody
Index to: DEEDS

Stewart
title of boise

AT-5000424454 CWF
4033908 RB
WARRANTY DEED

For Value Received DR&J Investments Limited Partnership, a Nevada Limited Partnership,
the Grantor, hereby grants, bargains, sells, conveys and warrants unto

Sands, LLC, an Idaho Limited Liability Company

the grantee, whose current address is 7154 W State St., #187, Boise, ID 83703

the following described premises, to wit:

See "Exhibit A" attached hereto

Parcel Number:

SUBJECT TO: Current General Taxes, a lien in the process of assessments, not yet due
or payable. Easements, restrictions, reservations, provisions of record, and assessments, if any.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with
the said Grantee, that it is the owner in fee simple of said premises, that said premises are free
from all encumbrances and that he will warrant and defend the same from all lawful claims
whatsoever.

Dated this 4th day of February, 2005.

DR&J Investments Limited Partnership

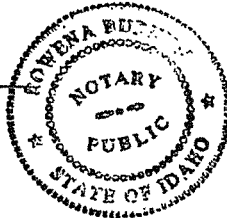
By: Donald J. Rumsey
Donald J. Rumsey
DR Holdings, Inc., General Partner, Donald J
Rumsey, President

STATE OF Idaho)
) ss.
COUNTY OF Ada)

On this 14th day of February, 2005, before me, the undersigned, a Notary Public, in and for said
State, personally appeared Donald J Rumsey, known and/or identified to me to be the President
of DR Holdings, Inc., the corporation which is a general partner of the partnership of DR&J
Investments Limited Partnership, and subscribed said partnership name to the foregoing
instrument and acknowledged to me that he executed the same in said partnership name.

WITNESS MY HAND AND OFFICIAL SEAL.

Rowena Burnum
Notary Public: Rowena Burnum
Residing at: Boise, ID
My commission expires June 10, 2006



**LEGAL DESCRIPTION
EXHIBIT 'A'**

Order No.: 5000424454LWF

Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho

Section 4: Lots 1, 2, 3 and 4, South Half Northwest Quarter, Southwest Quarter and South Half Southeast Quarter, Southwest Quarter Northeast Quarter.

Section 5: Lots 2 and 5, South Half Northeast Quarter and East Half Southeast Quarter.

Section 7: Lot 12, Southeast Quarter Northeast Quarter and Southeast Quarter.

Section 8: South Half, South Half North Half and Northeast Quarter Northeast Quarter.

Section 10: East Half and Southwest Quarter.

EXCEPTING THEREFROM:

A parcel of land located in the East Half of Section 10, Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho, more particularly described as follows:

Commencing at the quarter corner common to Section 3 and 10 and the REAL POINT OF BEGINNING; thence

South 89°36'36" East 1300.23 feet to a point; thence

South 50°47'04" East 106.98 feet to the right of way of Highway 55 marked by a brass monument; thence along the right of way of Highway 55

South 11°20'02" West 809.40 feet to a brass monument; thence along the right of way of Highway 55

South 40°42'04" West 575.85 feet to a brass monument; thence along the right of way of Highway 55

South 66°11'15" West 492.73 feet to a brass monument; thence along the right of way of Highway 55

North 82°45'29" West 387.07 feet to a brass monument making the point of curvature; thence along the right of way of Highway 55 and on a curve to the left, said curve having a radius of 1154.93 feet, a delta angle of 01°11'55", a chord of

North 83°21'26" West 24.16 feet to a point; thence

North 00°24'17" East 1454.05 feet to the REAL POINT OF BEGINNING.

Section 15: North Half Northwest Quarter.

Section 16: East Half.

Section 17: North Half Northeast Quarter and West Half.

Section 18: East Half Northeast Quarter, Southeast Quarter and Southeast Quarter Southwest Quarter.

Section 19: Northwest Quarter and North Half Northeast Quarter.

EXCEPTING from the above described parcels, the following parcels conveyed to the State of Idaho by Warranty Deed recorded January 6, 1988 as Instrument No. 126455.

A parcel of land being on both sides of the centerline of State Highway No. 55, Project No. ER-F-3271(43) Highway Survey as shown on the plans thereof now on file in the office of the Idaho Transportation Department, Division of Highways, and being a portion of the West Half Southeast Quarter, the Northeast Quarter Southeast Quarter, the South Half Northeast Quarter, the Northeast Quarter Northeast Quarter of Section 16, the Northwest Quarter Northwest Quarter of Section 15, the East Half Southeast Quarter of Section 9, the West Half Southwest Quarter of Section 10, Township 6 North, Range 2 East, Boise Meridian, described as follows, to-wit:

Commencing at the South Quarter of Section 16, Township 4 North, Range 2 East, Boise Meridian; thence

North 0°37'38" East along the West line of the West Half Southeast Quarter of said Section 16 a distance of 890.89 feet to a point coincident with Station 752+48.29 of said State Highway No. 55, Project No., ER-F-3271(43) Highway Survey and being the REAL POINT OF BEGINNING; thence continuing

North 0°37'38" East along said West line 642.0 feet, more or less, to a point that bears North 16°57'50" West 609.48 feet from Station 754+41.20 of said Highway Survey; thence

North 16°40'34" East 795.07 feet to a point that bears

North 57°52'30" West 1100.0 feet from Station 767+00 of said Highway Survey; thence

South 57°52'30" East 900.0 feet to a point that bears

North 57°52'30" West 200.0 feet from Station 767+00 of said Highway Survey; thence

North 18°24'25" East 740.88 feet to a point in a line parallel with and 200.0 feet Westerly from the centerline and bears

North 85°17'44" West from Station 775+43.17 of said Highway Survey; thence

North 4°42'16" East along said parallel line 359.25 feet to a point opposite Station 779+02.96 of said Highway Survey; thence

North 8°43'21" East 1056.29 feet to a point that bears

North 56°08'30" West 400.0 feet from Station 788+00 of said Highway Survey; thence

North 51°30'39" East 568.62 feet to a point in a line parallel with and 300.0 feet Northwesterly from the centerline and bears

North 40°54'50" West from Station 792+68.55 of said Highway Survey; thence

North 49°05'10" East along said last parallel line 327.98 feet to a point opposite Station 795+96.53 of said Highway Survey; thence

North 31°04'37" East 629.08 feet to a point in a line parallel with and 200.0 feet Westerly from the centerline and bears

South 86°40'08" West from Station 804+70.15 of said Highway Survey; thence

North 3°19'52" West along said last parallel line 569.10 feet to a point opposite Station 810+39.25 of said Highway Survey; thence

North 10°59'30" east 1049.65 feet to a point in a line parallel with and 400.0 feet Northwesterly from the centerline and bears

North 44°41'16" West from Station 818+49.97 of said Highway Survey;

North 45°18'44" East along said last parallel line 259.61 feet to a point opposite Station 821+09.58 of said Highway Survey; thence

North 19°07'05" East 561.52 feet to a point that bears
 North 77°23'53" West 500.0 feet from Station 829+27.34 of said Highway Survey; thence
 North 33°54'22" East 649.04 feet to a point in the North line of the Northwest Quarter
 Southwest Quarter of Section 10, Township 6 North, Range 2 East, Boise Meridian,
 that bears
 North 77°23'53" West 264.19 feet from Station 835+32.02 of said Highway Survey; thence
 South 89°55'42" East along said North line 833.0 feet, more or less, to a point that bears
 South 74°06'29" East 552.51 feet from Station 837+45.37 of said Highway Survey; thence
 South 22°35'16" West 17.27 feet to a point that bears
 South 77°23'53" East 550.0 feet from Station 836+96.63 of said Highway Survey; thence
 South 23°38'07" West 783.78 feet to a point that bears
 South 77°23'53" East 400.0 feet from Station 829+27.34 of said Highway Survey; thence
 South 18°57'23" West 1105.06 feet to a point that bears
 South 44°41'46" East 600.0 feet from Station 821+09.58 of said Highway Survey; thence
 South 24°14'46" East 278.21 feet to a point that bears
 South 44°41'16" East 680.0 feet from Station 818+49.97 of said Highway Survey; thence
 South 7°22'15" East 191.83 feet to a point in a line parallel with and 800.0 feet Easterly
 from the centerline and bears
 South 86°40'08" East from Station 810.39+25 of said Highway Survey; thence
 South 3°19'52" East along said last parallel line 569.10 feet to a point opposite Station
 804+70.15 of said Highway Survey; thence
 South 35°54'55" West 1408.47 feet to the Northeast corner of the Southeast Quarter
 Northeast Quarter of Section 16, Township 6 North, Range 2 East, Boise Meridian;
 thence
 South 33°54'55" West 1408.47 feet to the Northeast corner of the Southeast Quarter
 Northeast Quarter of Section 16, Township 6 North, Range 2 East, Boise Meridian;
 thence
 South 22°06'36" West 35.19 feet to a point that bears
 South 40°54'50" East 500.0 feet from Station 795+96.53 of said Highway Survey; thence
 South 28°59'23" West 329.24 feet to a point that bears
 South 40°54'50" East 620.0 feet from Station 792+68.55 of said Highway Survey; thence
 South 28°06'48" West 871.12 feet to a point that bears
 South 85°17'44" East 600.0 feet from Station 779+02.96 of said Highway Survey; thence
 South 29°56'50" West 1156.85 feet to a point that bears
 South 54°37'30" East 200.0 feet from Station 766+00 of said Highway Survey; thence
 South 41°18'19" West 853.76 feet to a point that bears
 South 30°14'59" East 350.0 feet from Station 758+50 of said Highway Survey; thence
 South 72°17'02" West 496.79 feet to a point that bears
 South 16°39'14" East 300.0 feet from Station 754+31.66 of said Highway Survey; thence
 South 62°42'36" West 299.01 feet to a point in the West line of the Southwest Quarter
 Southeast Quarter of said Section 16; thence
 North 0°37'38" East along said West line 372.0 feet, more or less, to the REAL POINT OF
 BEGINNING.

AND ALSO:

A parcel of land being on both sides of the centerline of said State Highway No. 55, Project
 No. ER-F-3271(43) Highway Survey and being a portion of the West Half Northeast

Quarter and the East Half Northeast Quarter of Section 10, Township 6 North, Range 2 East, Boise Meridian, described as follows, to-wit:

Commencing at the North Quarter corner of Section 10, Township 6 North, Range 2 East, Boise Meridian; thence

South 0°13'43" West along the West line of the Northeast Quarter of said Section 10 a distance of 1655.85 feet to a point coincident with Station 857+45.87 of said State Highway No. 55, Project No. ER-F-3271(43) Highway Survey and being the REAL POINT OF BEGINNING; thence continuing

South 0°13'41" West along the West line 302.0 feet, more or less, to a point in a line parallel with and 300.0 feet Southerly from the centerline and bears

South 7°14'31" West from Station 857+82.78 of said Highway Survey; thence

South 82°45'29" East along said parallel line 345.24 feet to a point opposite Station 961+28.02 to said Highway Survey; thence

South 78°21'58" East 1134.41 feet to a point that bears

South 32°53'15" East 800.0 feet from Station 867+96.84 of said Highway Survey; thence

North 36°45'16" East 828.23 feet to a point that bears

South 45°50'17" East 600.0 feet from Station 874+44.37 of said Highway Survey; thence

North 6°16'22" East 739.82 feet to a point that bears

South 75°27'14" East 300.0 feet from Station 679+00 of said Highway Survey; thence

North 2°40'25" West 819.14 feet to a point in the North line of the Northeast Quarter Northeast Quarter of said Section 10 that bears

North 30°45'47" East 340.77 feet from Station 885+12.36 of said Highway Survey; thence

North 89°38'23" West along said North line 398.0 feet, more or less, to a point coincident with Station 886+84.94 feet of said Highway Survey which bears

North 89°38'23" West 1012.53 feet from the Northeast corner of said Section 10; thence continuing

North 89°38'23" West along said North line 287.24 feet to the Northwest corner of said Northeast Quarter Northeast Quarter, which bears

South 47°45'10" West 215.88 feet from Station 888+79.54 of said Highway Survey; thence

South 50°47'04" East 106.98 feet to a point that bears

South 47°45'10" West 200.0 feet from Station 887+73.74 of said Highway Survey; thence

South 11°20'02" West 809.40 feet to a point that bears

North 45°50'17" West 400.0 feet from Station 874+44.37 said Highway Survey; thence

South 40°42'04" West 575.85 feet to a point that bears

North 32°53'15" West 300.0 feet from Station 867+96.84 of said Highway Survey; thence

South 66°11'15" West 492.73 feet to a point in a line parallel with and 200.0 feet Northerly from the centerline and bears

North 7°14'31" East from Station 861+28.02 of said Highway Survey; thence along said last parallel line as follows:

North 82°45'29" West 387.11 feet to a point opposite Station 857+40.91 of said Highway Survey, Westerly along a 1154.93 foot radius curve left 19.62 feet to a point in the West line of the Northeast Quarter of said Section 10; thence

South 0°13'41" West along said West line 201.0 feet, more or less, to the REAL POINT OF BEGINNING.

EXCEPT the following described property: (All of Webster Ranch Nos. 1, 2, 3 and 4)

2b p 6 of 9

A parcel of land located in portions of Section 4, Section 5, Section 8, Section 9, Section 10, Section 16 and Section 17, Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho, and more particularly described as follows:

Commencing at the section corner common to Sections 8, 9, 16 and 17, Township 6 North, Range 2 East, Boise Meridian, said corner being the POINT OF BEGINNING; thence South 00°26'41" West a distance of 1311.20 feet to a point, said point being the North 1/16 corner common to Section 16 and 17; thence North 89°05'04" West a distance of 1310.95 feet to a point; thence North 89°11'31" West a distance of 1308.37 feet to a point, said point being the Center North 1/16 corner to Section 17; thence North 00°03'25" West a distance of 1308.93 feet to a point, said point being the ¼ corner common to Sections 17 and 8; thence North 00°03'33" East a distance of 2807.41 feet to a point; thence North 61°36'07" East a distance of 418.13 feet to a point; thence North 17°37'29" East a distance of 238.16 feet to a point; thence North 00°55'48" East a distance of 737.85 feet to a point; thence South 89°14'06" East a distance of 879.70 feet to a point, said point being the North East 1/16 corner of Section 8; thence North 00°16'32" East a distance of 1314.85 feet to a point, said point being the East 1/16 corner common to Sections 5 and 8; thence North 01°20'43" East a distance of 2633.24 feet to a point, said point being the Center East 1/16 corner of Section 5; thence North 02°18'58" East a distance of 206.90 feet to a point; thence North 89°19'15" East a distance of 553.45 feet to a point; thence South 89°40'48" East a distance of 1331.70 feet to a point; thence North 66°58'42" East a distance of 919.36 feet to a point; thence North 86°23'00" East a distance of 1230.74 feet to a point; thence South 01°14'42" West a distance of 1995.18 feet to a point, said point being the Center South 1/16 corner of Section 4; thence South 89°33'53" East a distance of 2604.72 feet to a point, said point being the South 1/16 corner common to Sections 3 and 4; thence South 00°28'52" West a distance of 1327.34 feet to a point, said point being section corner common to Sections 3, 4, 9 and 10; thence South 00°34'30" West a distance of 2650.47 feet to a point, said point being the ¼ corner common to Sections 9 and 10; thence South 89°36'01" East a distance of 642.76 feet to a point, said point being on the West right of way of State Highway 55; thence following said right of way South 33°54'22" West a distance of 645.43 feet to a point; thence following said right of way South 19°07'05" West a distance of 561.52 feet to a point; thence following said right of way South 45°18'44" West a distance of 259.62 feet to a point; thence following said right of way South 10°59'30" West a distance of 1049.65 feet to a point; thence following said right of way South 03°19'52" East a distance of 569.11 feet to a point; thence following said right of way South 31°04'37" West a distance of 629.08 feet to a point; thence following said right of way South 49°05'10" West a distance of 327.98 feet to a point; thence following said right of way South 51°30'39" West a distance of 568.62 feet to a point; thence following said right of way South 08°43'21" West a distance of 1056.29 feet to a point; thence following said right of way

South 04°42'16" West a distance of 359.25 feet to a point; thence following said right of way
South 18°24'53" West a distance of 740.88 feet to a point; thence following said right of way
North 57°52'30" West a distance of 900.00 feet to a point; thence following said right of way
South 16°40'34" West a distance of 788.13 feet to a point; thence leaving said right of way
North 00°34'52" East a distance of 3719.18 feet to a point, said point being the North
Quarter corner common to Sections 16 and 9; thence
North 89°24'26" West a distance of 2618.79 feet to a point, said point being the POINT OF
BEGINNING.

EXCEPTING therefrom those lands located within the right of way boundary of Old
Highway 55, FAPN-129 A&B.

ALSO INCLUDING Parcel 11 of Webster Ranch No. 3

A parcel located in the Northeast Quarter and in the Southeast Quarter of Section 16,
Township 6 North, Range 2 East, Boise Meridian, Boise County, Idaho, as shown on the
Record of Survey of Webster Ranch No. 3, Boise County Recorder's Instrument No.
198933, and more particularly described as follows:

Commencing at the quarter corner common to Sections 9 and 16, Township 6 North, Range
2 East, Boise Meridian; thence

South 0°34'52" West a distance of 2648.89 feet to a point, said corner being the POINT OF
BEGINNING; thence

North 24°07'12" East a distance of 1199.09 feet to a point; thence

North 89°58'02" East a distance of 878.00 feet to a point; thence

South 08°43'21" West a distance of 837.45 feet to a point; thence

South 04°42'54" West a distance of 370.13 feet to a point; thence

South 18°25'31" West a distance of 763.31 feet to a point; thence

North 57°51'52" West a distance of 927.25 feet to a point; thence

South 16°41'12" West a distance of 675.93 feet to a point; thence

North 00°34'52" East a distance of 980.21 feet to a point, said point being the POINT OF
BEGINNING.

In Township 7 North, Range 2 East, Boise Meridian, Boise County, Idaho.

Section 32: Lots 7, 10 and 11;

Section 33: East Half Southeast Quarter, East Half of the Northeast Quarter, Southwest
Quarter of Southeast Quarter, Southeast Quarter of Northwest Quarter, Lots 3, 4, 5, 6, 7, 8,
9, 10 and 11.

EXCEPTING THEREFROM:

A tract of land situated in the South Half of the Northwest Quarter of Section 33, Township
7 North, Range 2 East, Boise Meridian, Boise County, Idaho, described as follows:

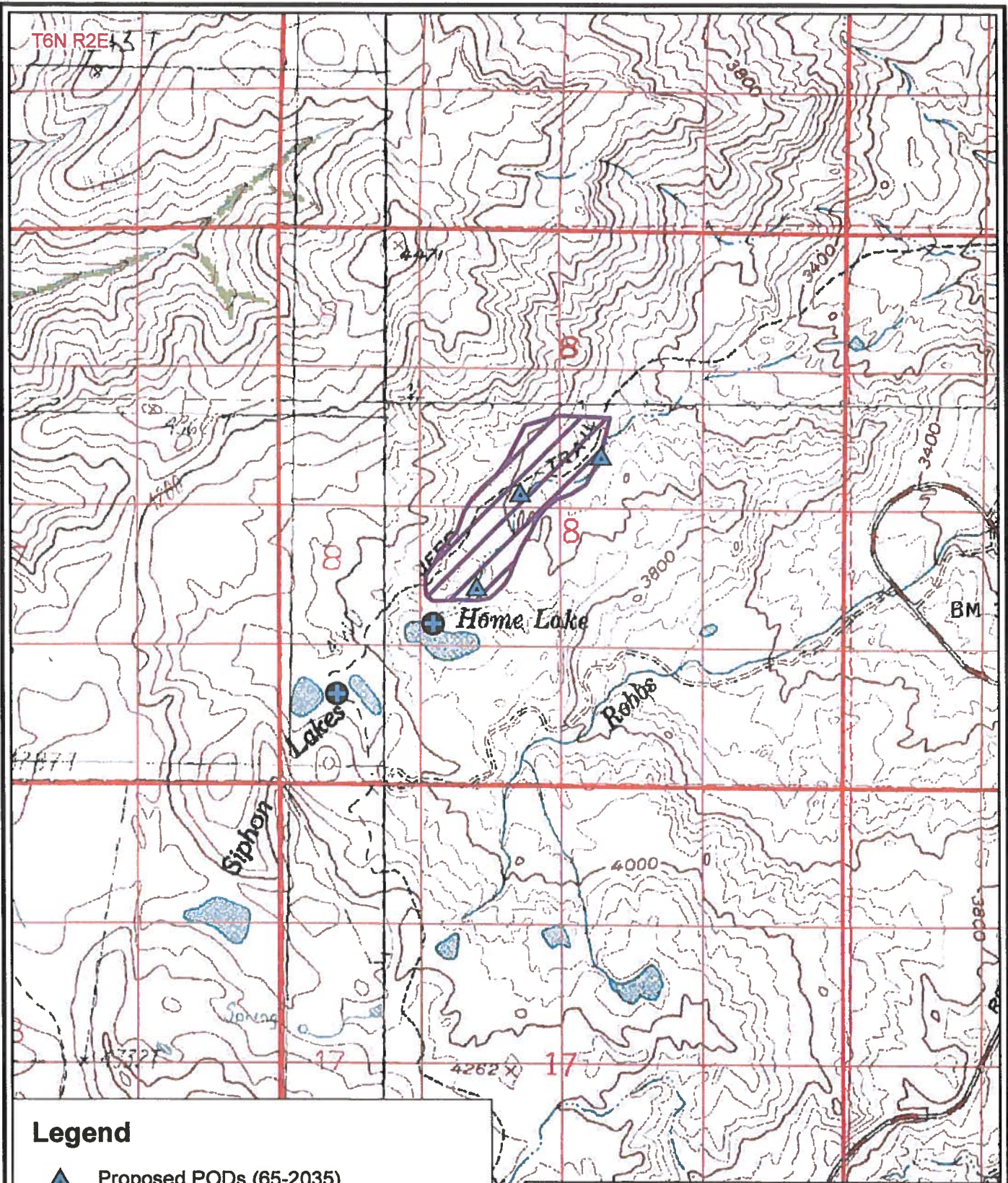
Commencing at a found stone monumenting the Northeast corner of the Northwest Quarter
of said Section 33, thence along the Northerly line of said Northwest Quarter

2 b p B of 9

North $88^{\circ}49'37''$ West a distance of 2568.38 feet to a found brass cap monumenting the Northwest Quarter of said Section 33, thence leaving said Northerly line and along the Westerly line of said Northwest Quarter of Section 33
 South $00^{\circ}02'00''$ West a distance of 1318.03 feet to a point monumenting the Northwest corner of the South Half of said Northwest Quarter, from said point a stone monumenting the Southwest corner of Government Lot 2 bearing
 South $00^{\circ}02'00''$ West a distance of 85.24 feet, thence leaving said Westerly line and along the Northerly line of said South Half of said Northwest Quarter
 South $89^{\circ}04'31''$ East a distance of 912.12 feet to a set steel pin on the Easterly right of way of the Union Pacific Railroad, said pin being the POINT OF BEGINNING; thence continuing along said Northerly line of the South Half of said Northwest Quarter
 South $89^{\circ}04'31''$ East a distance of 459.40 feet to a set steel pin; thence leaving said Northerly line
 South $00^{\circ}57'18''$ East a distance of 399.86 feet to a set steel pin; thence
 South $89^{\circ}02'37''$ West a distance of 716.15 feet to a set steel pin on said Easterly right of way of said Union Pacific Railroad; thence along said right of way the following courses: along the arc of a circular curve concaved Northwesterly a distance of 174.74 feet, said curve having a radius of 1532.44 feet, a central angle of $06^{\circ}32'00''$, a chord bearing
 North $34^{\circ}42'55''$ East and a chord distance of 174.65 feet to a set steel pin; thence along a spiral curve concaved Northwesterly a distance of 180.07 feet, said spiral having a spiral angle of $03^{\circ}30'00''$, a chord bearing
 North $29^{\circ}08'54''$ East, and a chord distance of 180.04 feet; thence
 North $27^{\circ}58'53''$ East a distance of 134.04 feet to the POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:

Right of way of Idaho Northern Railway Company Limited as disclosed in Book 35 of Deeds at Page 321, Book 37 of Deeds at Pages 23 and 25, Boise County, Idaho.



Legend

-  Proposed PODs (65-2035)
-  Proposed Re-Diversion PODs (65-11141)
-  Current PODs (65-11141)
-  Proposed PPU

Transfer Attachment 7a

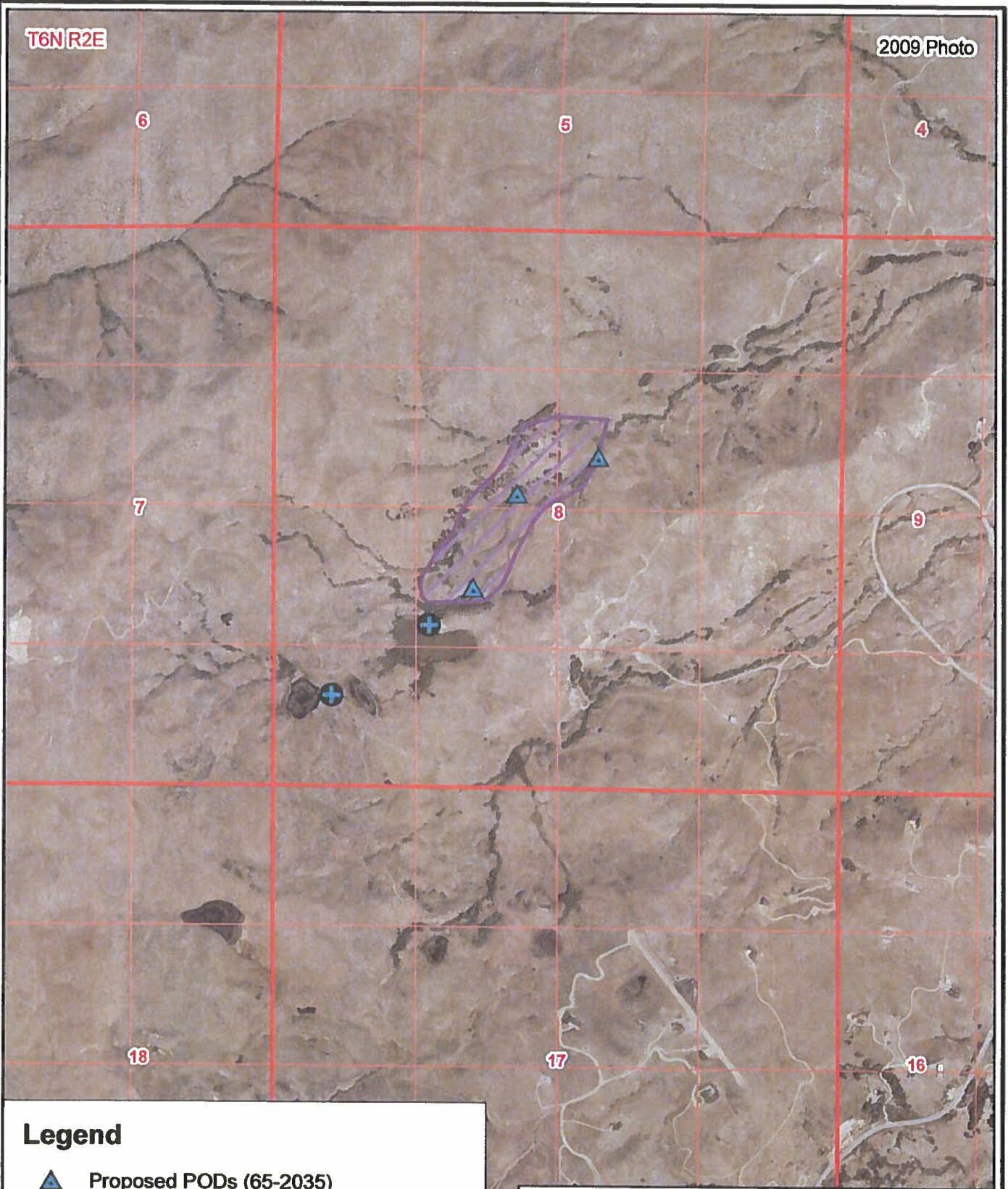


0 750 1,500
Feet



T6N R2E

2009 Photo



Legend

-  Proposed PODs (65-2035)
-  Proposed Re-Diversion PODs (65-11141)
-  Current PODs (65-11141)
-  Proposed PPU

Transfer Attachment 7b



0 750 1,500
Feet



Pearson, Mandi

From: Pearson, Mandi
Sent: Thursday, July 12, 2012 4:03 PM
To: 'waterdist65@srvinet.com'
Subject: Comment Letter
Attachments: 65-23494.pdf; 77039.pdf; Letter Watermaster 65.docx

Ron,

Please see the attached documents regarding App for Permit 65-23494 and Transfer 77039. Thanks and have a great day!

Mandi Pearson

Office Specialist 2
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

July 12, 2012

RON SHURTLEFF
WATER DISTRICT #65
102 N MAIN
PAYETTE, ID 83661

RE: Application for Transfer No. 77039
 Application for Permit No. 65-23494

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application(s). A copy of the application is enclosed with this email for your reference. Please review the application(s), complete the enclosed recommendation form, and submit your reply, if any, to this office within 21 days.

The protest deadline for any interested party is August 6, 2012. A written protest and the \$25 filing fee must be received by 5:00 p.m. that day in order to be recognized by IDWR.

IDWR will assume you do not object to this application if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

Steve Lester
Water Rights Supervisor

Pearson, Mandi

From: Pearson, Mandi
Sent: Wednesday, July 11, 2012 4:48 PM
To: 'editor@idahoworld.com'
Subject: RE: Legal Ad
Attachments: Boise County Cover Letter.docx; Boise County Legal Ad.docx

Oops, forgot to include the attachments! See attached. ☺

From: Pearson, Mandi
Sent: Wednesday, July 11, 2012 4:46 PM
To: 'editor@idahoworld.com'
Subject: Legal Ad

Teri,

I will be taking over the advertising duties for the time being.
Please see the attached legal ads for publication 7/18/12 and 7/25/12.
Please confirm that these are ok to publish as shown.

Thanks!

Mandi Pearson

Office Specialist 2
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

July 11, 2012

LEGAL NOTICE DEPARTMENT
IDAHO WORLD
PO BOX 50248
BOISE, ID 83705

RE: Transfer No. 77039,
Water Right No(s): 65-2035, 65-11141

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 8/6/2012. Your cooperation is appreciated.

Sincerely,

Mandi Pearson
Office Specialist II

Enclosure(s)

PROPOSED CHANGE OF WATER RIGHTS

Sands LLC, c/o Steve Loomis of 7154 W. State St., #187, Boise, ID 83714, filed Application No. 77039 to transfer two water rights with 1896 and 1905 priority dates from Siphon Lakes, Home Lake and an unnamed stream aka Webster Creek totaling 0.42 cfs and 32 afa. The purpose of the transfer is to move the points of diversion and redirection and the place of use from where the rights have been historically used to property owned by the owner of the water rights. The new place of use is approximately 0.75 mile to the southwest of the historical place of use and is approximately 2 miles southwest of Horseshoe Bend, Idaho.

For additional information concerning the property location, please 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 Sec 42-222, Idaho Code. Any protest against the proposed change must be filed with the Director, IDWR Western Region, 2735 Airport Way, Boise ID 83705-5082 together with a protest fee of \$25.00 for each application on or before 8/6/2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director

Published on 7/18/12, 7/25/12

Lester, Steve

From: jerry kiser [jkiser@cableone.net]
Sent: Friday, March 30, 2012 9:51 AM
To: Lester, Steve
Subject: Email address change for Jerry A. Kiser

Steve, thank you for calling me this morning. The email address I am sending this email to you from is my new email for all IDWR purposes. It is jkiser@cableone.net. If you have any questions please let me know. Thank you again. Jerry A. Kiser

Jerry A. Kiser
Attorney at Law
1703 Hill Road
Boise, Idaho 83702
(208) 861-4657

March 22, 2012

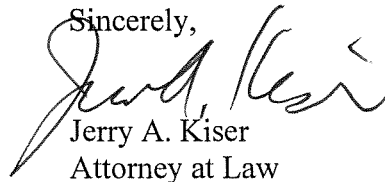
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right Transfer Applications Number 77039/ Water Right numbers 65-2035 and 65-11141.

Dear Department Representative:

I am writing regarding the above referenced transfer applications. Please change the address on file with department to reflect my new mailing address. That address is P.O. Box 8389, Boise, ID 83707. If you have any questions regarding this request please contact me.

Sincerely,


Jerry A. Kiser
Attorney at Law

RECEIVED

MAR 23 2012

WATER RESOURCES
WESTERN REGION

ATTORNEY contact info updated,
data entered 3/30/12
-SL

Music, Vicky

From: Lori Graves [LGraves@spfwater.com]
Sent: Thursday, February 16, 2012 2:50 PM
To: Music, Vicky
Cc: Christian Petrich; Scott King
Subject: RE: Sands LLC transfer 77039

Thanks for talking with us and helping us understand the Department's intent. We agree that the pod on Home Lake decreed to water right 65-11141 should also be considered an injection point for the Siphon Lakes POD...just as long as it remains a pod for water tributary to Home Lake that does not flow from Siphon Lakes. Thanks Vicky.

From: Music, Vicky [<mailto:Vicky.Music@idwr.idaho.gov>]
Sent: Thursday, February 16, 2012 10:39 AM
To: Lori Graves
Subject: Sands LLC transfer 77039

Hi Lauri –

I hope this application will be advertised in early March and have a last detail that I want to run by you. As you know, it is IDWR policy that points of rediversion must have a associated point of injection. Right 65-11141 was decreed in the PRBA and SRBA without a point of injection so the right does not quite meet policy. Rather than having you come in and amend the transfer, will your client grant permission for the Department to do some "housekeeping" and change the POD from Home Lake to correctly reflect the pt. of injection where Home Lake water enters the unnamed stream?

Thanks.

Vicky Music
Sr. Water Resource Agent
IDWR Western Region
2735 Airport Way
Boise, ID 83705
208.334.2190

No. W 34058	Due no later than Oct 31, 2010 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE			STEVEN J LOOMIS 90 PLUM DRIVE HORSESHOE BEND ID 83629			
	1. Mailing Address: Correct in this box if needed. SANDS LLC STEVEN J LOOMIS 7154 W STATE ST #187 BOISE ID 83714-7421 USA		3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MANAGER	STEVEN J LOOMIS	7154 W STATE ST #187	BOISE	ID	USA	83714-7421
MANAGER	SUSAN HOLLAND	7154 W STATE ST #187	BOISE	ID	USA	83714-7421
5. Organized Under the Laws of: ID W 34058		6. Annual Report must be signed.* Signature: Steve Loomis Name (type or print): Steve Loomis Date: 08/17/2010 Title: Manager				
Processed 08/17/2010		* Electronically provided signatures are accepted as original signatures.				

STOPPELLO & KISER
ATTORNEYS AND COUNSELORS AT LAW
620 WEST HAYS STREET
BOISE, IDAHO 83702

FRANK W. STOPPELLO
JERRY A. KISER

TELEPHONE (208) 336-1020
FACSIMILE (208) 336-1027

RECEIVED

FEB 02 2011

February 1, 2011

WATER RESOURCES
WESTERN REGION

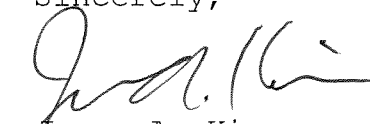
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right Numbers 65-2035 and 65-11141
Application for Transfer

Dear Department Representative:

Enclosed is an Application for Transfer of Water Right and Minimum Requirements Checklist together with one copy. Also enclosed is a check for the application fee of \$500.00. Please return a receipted copy of the enclosed document to the undersigned in the enclosed addressed, stamped envelope. If you have any questions, please feel free to contact me. *DB*

Sincerely,


Jerry A. Kiser
Attorney at Law

JAK:dc

Enclosures

cc: Sands LLC

MEMORANDUM

TO: Transfer No. 77039 File
FROM: Vicky Music
DATE: January 18, 2012
RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change and add points of diversion and rediversion and change the place of use of water right no. 65-2035 and 65-11141. The site is located about 2 miles southwest of Horseshoe Bend, Idaho, in Boise County. Contact person for the applicant is consultant Lori Graves, SPF Water Engineering.

Deviations from Transfer Policy Standards

The application appears to be very complete with no deviations from IDWR transfer policy.

Summary of Information Submitted

Authority to File:

The applicant provided a water right warranty deed that conveys the water rights 65-2035, 65-3504 [not involved in this transfer] and 65-11141 to the applicant. In addition, the applicant provided a Judgment issued 12/10/2011, by the Idaho District Court quieting title for these 3 rights. The judgment states that Sands LLC, the applicant is the owner of these water rights.

Water Right Validity:

The rights are assumed to be valid because beneficial use was verified by an aerial photo review. The place of use appears irrigated in the 2011 aerial.

Injury to Other Water Rights:

No injury to other rights are likely because there are no water right PODs or POU's between the old and new PODs/POUs, other than those owned by the applicant.

Enlargement of Use:

No enlargement of diversion rate, diversion volume or consumptive use volume is proposed or expected.

Local Public Interest:

There are no obvious public interest issues.

Beneficial Use/Conservation of Water Resources:

The application proposes beneficial use consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Additional Information/Analysis and Discussion

The transfer seeks to move the points of diversion and redirection and the place of use from those historically used to property approximately 0.50 to 0.75 mile to the southwest. Though the application states it seeks to “add” PODs, the right post-transfer will have the same number of PODs as before.

Water right no. 65-11141 has an 1896 priority date. The right was adjudicated in both the PRBA and the SRBA. Current IDWR policy is that point of redirection cannot exist without a point of injection. However, 65-11141 was decreed twice with three points of redirection and no point of injection. I contacted the consultant and asked if it was acceptable to use this transfer to make the water right comply with IDWR policy by adding a point of injection where water from Home Lake enters the unnamed stream (Webster Creek), in the NESW Section 8. SPF agreed. I did not require the applicant to amend the application for this bit of “housekeeping”.

To be absolutely correct, points of injection and redirection occur when the Siphon Lakes overflow into the other and then into Home Lake. However, this would be very confusing so I will note how the system works in the database comments.

Another note regarding 65-11141 is that it is an irrigation from storage right with no storage component. In fact, the applicant does not have a storage right for the lakes. It may be because right 65-11141 is an old right that predates many changes in IDWR policy. However, the applicant has sought to rectify this by applying for storage and currently has permit nos. 65-23354 and 65-23355 as well as application for permit no. 65-23445 for lake storage.

Data entry affected the correct record, the partial decrees were issued & the results were migrated to wr records. Additional information is not required from the applicant. The application is not being parallel processed with SO. No additional IDWR analysis needed.

IDWR will solicit comments from the Payette River, Basin 65, Watermaster.

The SRBA court issued the partial decrees for both rights in 2002.

The rights being transferred are for the same POU and the PODs from the unnamed stream are POD overlaps. There are no other overlapping rights at existing &/or proposed POD &/or POU but there are overlapping permits. POU overlaps are permit no. 65-23083 for municipal use from ground water, and permit nos. 65-23354 and 65-23354 for irrigation from storage from the Siphon Lakes. The PODs for these 2 rights appear to be the overlaps of the PODs being transferred to the unnamed stream aka Webster Creek.

Mitigation is not an issue. None of the rights are in the Water Bank.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Condition 046 n/a because new wells are not proposed.