

RECEIVED

42-222 POD
03/2011

JUN 17 2011

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the *Application for Transfer Instructions* for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change

1. APPLICANT(S) Idahoan Foods, LLC Phone 208-754-46862. MAILING ADDRESS PO Box 130 City LewisvilleState ID Zip 83431 Email _____

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☒ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 61-293C

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 0.395 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
5S	10E	18		NW	SE	SE	ELMORE	SAND SPRINGS GULCH	
5S	10E	18		NW	SE	SE	ELMORE	SAND SPRINGS GULCH	INJECTION
5S	10E	19		SE	SW	SE	ELMORE	SAND SPRINGS GULCH	REDIVERSION

6. 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 from source is injected into Little Canyon Creek and rediverted at a pump downstream into a pipeline, then a retaining pond, and into the distribution system for the farm, which has shut-off valves to direct to pivots.

- 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. 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(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe _____

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at <http://maps.idwr.idaho.gov/TransferApplicationLayouts/> provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Sam Huffman _____ Sam Huffman, V.P. Operations & Technology 6/6/2011
Signature of applicant or authorized agent Print name and title if applicable Date

Signature of applicant or authorized agent Print name and title if applicable Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes 8 pages of attachments. Received by SB Date 6-17-11

* Fee paid \$100- Date 6-17-2011 Received by DB Receipt # W039335

Preliminary review completed by AG Date 12/5/2011

* additional \$150- Received 6/20/2011. DB #W039345

Recording Requested by, and
When Recorded, Return to:

North American Foods, LLC
529 North 3500 East
P.O. Box 130
Lewisville, ID 83431

Instrument # 389389
Elmore County, Idaho
03:05pm Jul. 18, 2007
For: FIRST AMERICAN TITLE COMPAN
No. of Pages: 3 Fee: \$9.00
MARSA GRIMMETT, Recorder
Deputy: DLE

WARRANTY DEED

For Value Received, IDAHO FRESH-PAK, INC., an Idaho corporation, the Grantor, as of July 12, 2007 (the "Effective Date") grants, bargains, sells, conveys and warrants unto NORTH AMERICAN FOODS, LLC, a Delaware limited liability company, the Grantee, whose current address is 529 North 3500 East, P.O. Box 130, Lewisville, ID 83431, the following described premises located in Elmore County, Idaho, to-wit:

See Exhibit "A" attached hereto and by reference made a part hereof.

///

RE-RECORDED

Instrument # 389938
Elmore County, Idaho
03:21pm Aug. 03, 2007
For: FIRST AMERICAN TITLE COMPAN
No. of Pages: 3 Fee: \$9.00
MARSA GRIMMETT, Recorder
Deputy: DLE

TO HAVE AND TO HOLD the said premises, together with all improvements, rights of way, easements, water rights and water contracts, and appurtenances of whatever kind or nature unto the said Grantee and its 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 it will warrant and defend the same from all lawful claims whatsoever.

Dated: July 12, 2007.

IDAHO FRESH-PAK, INC.,
an Idaho corporation

By: [Signature]
Jerry P. Wright
Its President

State of Utah)
:ss
County of Salt Lake)

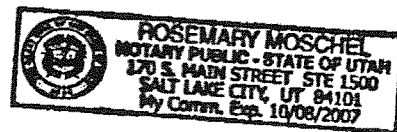
On this 12th day of July, 2007, before me, the undersigned, a Notary Public, in and for said State, personally appeared Jerry P. Wright, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person who subscribed to the within instrument, who duly acknowledged to me that, as of the Effective Date, he is the President of Idaho Fresh-Pak, Inc., and acknowledged to me that he executed the same in his capacity as President and on behalf of said corporation by authority.

WITNESS MY HAND AND OFFICIAL SEAL.

(SEAL)

[Signature]
Notary Public
Residing at _____

Commission Expires: _____



Parcel 1:

Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho

Section 19:

U.S. Government Lots 1, 2, 3 and 4,

East $\frac{1}{2}$ Southwest $\frac{1}{4}$,

West $\frac{1}{2}$ West $\frac{1}{2}$ Southeast $\frac{1}{4}$,

West $\frac{1}{2}$ East $\frac{1}{2}$ Southwest $\frac{1}{4}$ Southeast $\frac{1}{4}$

East $\frac{1}{2}$ Northwest $\frac{1}{4}$

SAVE AND EXCEPT:

A parcel of land being a portion of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho, said parcel being more particularly described as follows:

Commencing at the iron pin marking the corner common to Sections 18, 17, 20 and 19, Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho; thence South 89°33'00" West 2680.52 feet to the Brass Cap marking the $\frac{1}{4}$ corner common to said Sections 18 and 19, said point being the Real Point of Beginning; thence South 00°30'04" West 135.55 feet more or less, along the Meridional Center Line of said Section 19 to an iron pin; thence North 89°52'32" West 270.13 feet to an iron pin; thence North 00°09'52" West 133.94 feet to said line common to Sections 18 and 19; thence South 89°52'32" East 271.69 feet to the Real Point of Beginning.

Parcel 2:

Township 5 South, Range 10 East, Boise Meridian, Elmore County, Idaho

Section 30:

U.S. Government Lots 1 and 2 North of Bennett Road

East $\frac{1}{2}$ Northwest $\frac{1}{4}$ North of Bennett Road

West $\frac{1}{2}$ Northeast $\frac{1}{4}$ North of Bennett Road

State of Idaho

Office of the Secretary of State

AMENDED CERTIFICATE OF AUTHORITY

OF

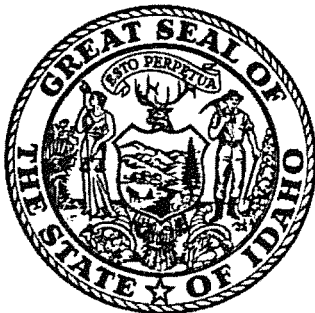
North American Foods, LLC

File Number W 64219

I, BEN YSURSA, Secretary of the State, hereby certify that an Application for Amended Certificate of Authority, has been received in this office and is found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Amended Certificate of Authority to reflect the name change from **NORTH AMERICAN FOODS, LLC** to **IDAHOAN FOODS, LLC** and attach hereto a duplicate of the application for such amended certificate.

Dated: October 16, 2008



Ben Yursa
SECRETARY OF STATE

By

Linda McShany



AMENDMENT OF REGISTRATION OF FOREIGN LIMITED LIABILITY COMPANY

(Instructions on back of application)

08 OCT 16 AM 8:58

SECRETARY OF STATE
STATE OF IDAHO

1. The name of the foreign limited liability company prior to this amendment is:

North American Foods, LLC

2. If the foreign limited liability company was required to adopt an assumed name in order to register in Idaho, the name the foreign limited liability company used in Idaho is:

3. The application for registration in Idaho was filed on: 7-2-07

4. The foreign limited liability company's registration is amended as follows:
(check one or more)



- a. The name of the limited liability company has been changed to:

Idahoan Foods, LLC

If the new name is not available or permissible in Idaho, the name to be used in Idaho is: _____



- b. The LLC has changed its jurisdiction of registration, without a change of formation to:



- c. Other amendment: _____

5. Signature of authorized person:

Signature

Thane J. Mitton

Typed Name

Thane Mitton

Capacity

Sr. Manager - Corp. Acctg.

g:\corp\form\amend reg_foreign llc.pdf
Revised 09/2002

Secretary of State use only

IDAHO SECRETARY OF STATE
10/16/2008 05:00
CK: 15789 CT: 216537 DH: 1140325
1'0 30.00 = 30.00 FOR LLC AM # 2

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "NORTH AMERICAN FOODS, LLC", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "IDAHOAN FOODS, LLC", THE NINTH DAY OF JULY, A.D. 2008, AT 10:52 O'CLOCK A.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF AMENDMENT IS THE SEVENTEENTH DAY OF JULY, A.D. 2008.



4376064 8320

080975571

You may verify this certificate online
at corp.delaware.gov/authver.shtml

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6877324

DATE: 09-26-08

#26

TRANSFER No. 77372

WATER RIGHT NO. 61-293C

Owner Type **Name and Address**

Current Owner IDAHO FRESH PAK INC

PO BOX 130

LEWISVILLE, ID 83431-0130

(208)754-8100

Attorney BARKER ROSHOLT & SIMPSON LLP

1010 W JEFFERSON STE 102

PO BOX 2139

BOISE, ID 83701-2139

(208)336-0700

Priority Date: 08/01/1898

Basis: Decreed

Status: Active

Source **Tributary**

SAND SPRINGS GULCH CREEK LITTLE CANYON CREEK

Beneficial Use From To Diversion Rate Volume

IRRIGATION 3/15 11/15 0.395 CFS

Total Diversion 0.395 CFS

Location of Point(s) of Diversion:

SAND SPRINGS GULCH CREEK NWSESE Sec. 18 Township 05S Range 10E ELMORE County

SAND SPRINGS GULCH CREEK Rediversion NWSESE Sec. 18 Township 05S Range 10E ELMORE County

SAND SPRINGS GULCH CREEK Injection NWSESE Sec. 18 Township 05S Range 10E ELMORE County

IRRIGATION Use: Acre Limit: 22

Place of Use Legal Description: IRRIGATION ELMORE County

Township Range Section Lot Tract Acres Lot Tract Acres Lot Tract Acres Lot Tract Acres

05S 10E 19 NENW 39.2

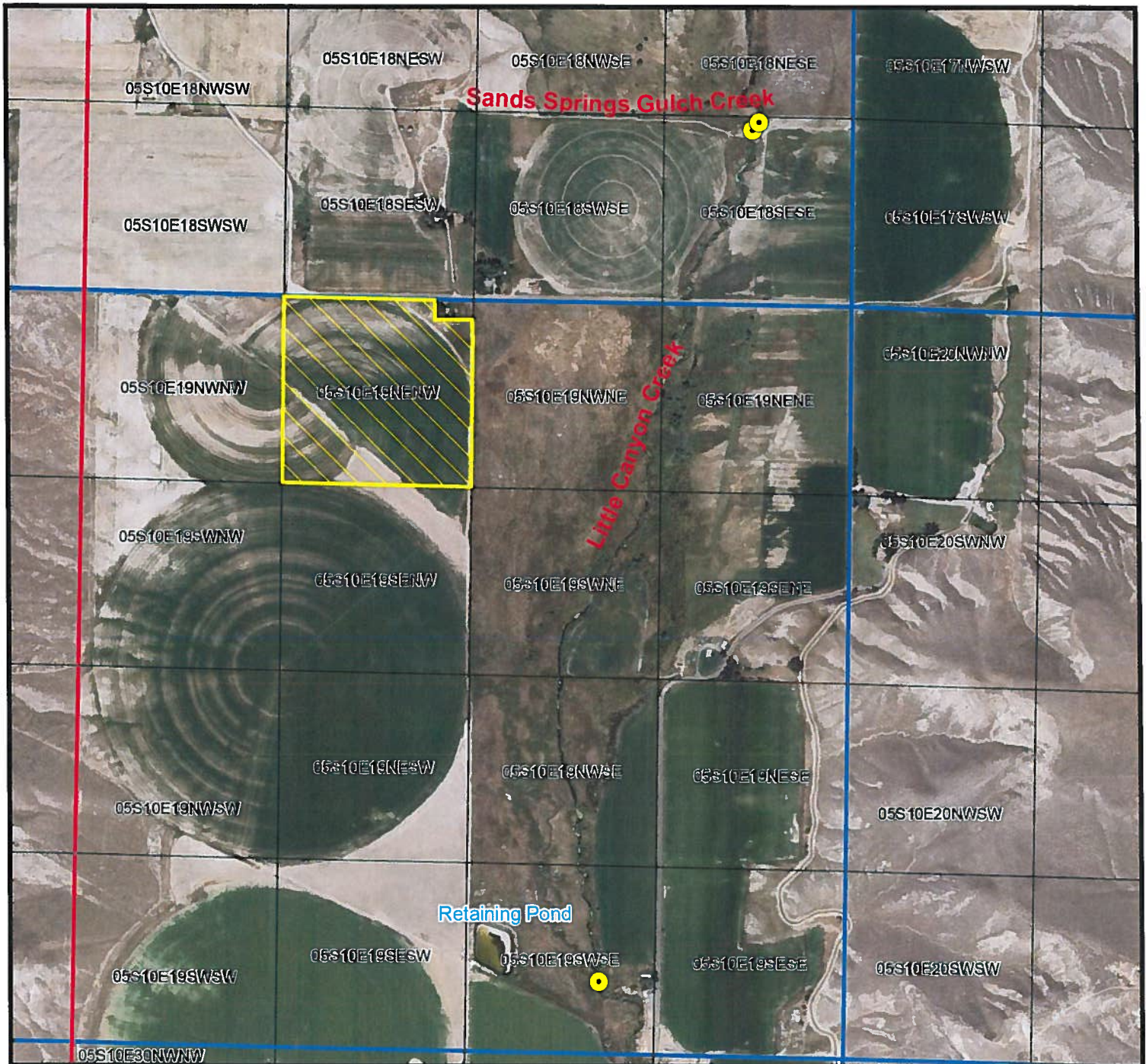
Total Acres: 39.2

Conditions of Approval:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient

1. C18 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.

Idahoan Foods, LLC



-  Point of Diversion 61-293C
-  Place of Use 61-293C
-  Township and Range
-  Section
-  QQ

A horizontal number line representing distance in feet. The line starts at 0 on the left and ends at 2,600 on the right. Major tick marks are labeled at 0, 650, 1,300, and 2,600. There are 10 equal intervals between 0 and 2,600, with minor tick marks at every 260 feet (0.4 intervals).

2009 NAIP Photography





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

December 14, 2011

JENIFER BAKER
C/O TERESA MCCALLUM
11204 B BAR 21 DR
GLENN'S FERRY ID 83623

RE: Transfer No: 77372
Water Right No(s): 61-239C

Dear Ms. Baker:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Sherry Borgeman
Administrative Assistant

Enclosure(s)

Borgeman, Sherry

From: Borgeman, Sherry
Sent: Wednesday, December 14, 2011 1:23 PM
To: 'Swenson, Stacy'
Subject: Legal Notice
Attachments: Elmore County - Cover Letter.docx; Elmore County - Ads.docx

Attached is (1) legal notice being submitted for publication. If you have any questions regarding the attached information, or if you can not publish the ad on the dates indicated please contact me immediately.

Thank you,

Sherry Borgeman
Idaho Department of Water Resources, Western Region
208-334-2190 (ph)
208-334-2348 (fax)

December 14, 2011

LEGAL NOTICE DEPARTMENT
MOUNTAIN HOME NEWS
PO BOX 1330
MOUNTAIN HOME, ID 83647-1330

RE: Transfer No. 77199
Water Right No(s): 61-12149

Transfer No. 77372,
Water Right No(s): 61-293C

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 1/9/2012. Your cooperation is appreciated.

Sincerely,

Sherry Borgeman
Administrative Assistant

Enclosure(s)

PROPOSED CHANGE OF WATER RIGHT(S)

Idaho Water Company LLC c/o Del Kohtz of 1135 Valley Road South, Eden ID 83325 filed Application No. **77199** to transfer one water right with a 1971 priority date from ground water totaling 1.9 cfs. The transfer proposes to retire 20 acres of irrigated land and provide 64 AF for year round commercial and stockwater use from five existing wells and two proposed wells for the Sun View Dairy approximately 0.5 miles west of State Hwy 51 north of Blanksma Rd. The unchanged portion of the right will remain on land approximately 1 mile east of the Mountain Home Air Force Base off Mint Farm Rd.

PROPOSED CHANGE OF WATER RIGHT(S)

Idahoan Foods LLC of P.O. Box 130 Lewisville ID 83431 filed Application No. **77372** to transfer one water right with an 1898 priority date from Sand Springs Gulch totaling 0.40 cfs. The purpose of the transfer is to change the point of diversion to a point approximately 1.25 miles downstream from the current point of diversion on Little Canyon Creek. Water will be used at the current place of use south of Morrow Reservoir Rd at the intersection with Bostic Ln approximately 2 miles north of Glens Ferry.

For additional information concerning the property location, contact Western Region office at (208) 334-2190; or see www.idwr.idaho.gov/apps/ExtSearch/WRFiling.asp for a full description of the right(s) and the proposed transfer. Protests may be submitted based on the criteria of Idaho Code § 42-222. Any protest against the proposed change must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, ID 83705 together with a protest fee of \$25.00 for each application on or before January 9, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Interim Director
Published on 12/21/2011 and 12/28/2011



June 13, 2011

RECEIVED

JUN 17 2011

IDWR Western Region
2735 Airport Way
Boise, ID 83705

WATER RESOURCES
WESTERN REGION

Re: Application for Transfer.

Dear Agent,

Enclosed please find an Application for Transfer filed on behalf of Idahoan Foods, LLC. Our firm has been retained to assist and represent the Applicant in their water right related issues. We request any and all correspondence relating to this transfer be directed to this office.

The Transfer seeks to change the point of diversion to the actual point of diversion used, which has been moved due to inability to access and deliver water from the original point of diversion. When the property on which the original point of diversion was sold, it was conveyed with the pump without an explanation as to the delivery of water to the Applicant's property. The buyer then severed the mainline and made it impossible to deliver water to the Applicant's place of use. Hence, the Applicant installed a pump farther downstream where it was more accessible and efficient for their irrigation system.

The transfer has been prepared in accordance with Idaho Department of Water Resources' standards. We appreciate your kind attention to this matter, and are happy to answer any questions you may have.

Respectfully,

A handwritten signature in black ink that reads "Kristin Moore".

Kristin Moore
Water Rights Analyst

Enclosures: Application for Transfer of Water Rights – Point of Diversion