

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AT LAW

950 WEST BANNOCK, SUITE 520

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

FACSIMILE COVER SHEET

DATE: March 15, 2011 RECIPIENT'S FAX: 334-2348
TO: Mr. John Westra
IDWR CLIENT: 1752-00
RE: Application for Transfer - Allen Ranch LLP WR# 65-3111X
FROM: Bruce M. Smith/Cathy
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 12

 ORIGINAL WILL NOT BE SENT
 X ORIGINAL WILL BE SENT BY FIRST CLASS MAIL
 ORIGINAL WILL BE SENT BY FEDERAL EXPRESS

ADDITIONAL COMMENTS:

Please find enclosed the application for transfer being filed on behalf of Allen Ranch LLP for water right 65-3111X. The original application is being mailed to you in today's mail. Please call me at 331-1800 if you have any questions. Thank you.

Sincerely,

Cathy Minyard
Legal Assistant to Bruce M. Smith

***** IMPORTANT MESSAGE *****

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) ALLEN RANCH LLC Phone _____Mailing address 3146 CENTENNIAL Ave Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it Attachment #1.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it Attachment #2a.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it Attachment #2b.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it Attachment #3.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative BRUCE SMITH Phone 331-1800 / 631-3702Mailing address 950 W. BANNOCK ST. STE. 520 BOISE ID 83702 Email bms@msbtor.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

Bruce Smith
Print Name and Title if applicable3/14/11
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

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. Correct the historical error in the recorded point of diversion. The recorded point of diversion has not been used for some time. The upper & lower points listed on the next page and shown on the map have historically been used to irrigate the land.

**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.	<u>Right Number</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>	<u>Source & Tributary</u>
All or Part ☒ ☐	65-3111X	2.70 cfs	Irrigation	4/15 to 10/15	unnamed stream / North Fork
☐ ☐				to	of Payette River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.70 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 2.70 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 #
			SE	NE	3	13N	3E	VALLEY	UNNAMED STREAM	LOWER ALLEN
			NW	SW	3	13N	3E	VALLEY	UNNAMED STREAM	UPPER ALLEN

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☒ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres (for irrigation use) _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION 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: Gravity flow ditches, can install headgates & measuring devices if needed.

Source locally known as Richard Creek & Rock Creek.

- * b. Who owns the property at the point(s) of diversion? USFS

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: N/A

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: N/A

- 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 for applicant. Rights 65-3111A & 65-3111F for different owners also list the same recorded point of diversion as this right being corrected.

- 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: _____

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02/23/2011

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 65-3111X

WATER RIGHT NUMBER: 65-3111X

Part 2 A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	2.700 CFS	
	<u>Total Diversion:</u>	2.700 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SE1/4	Sec. 3,	Twp 13N,	Rge 03E, B.M.
VALLEY County				

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13N	03E	3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:

1. SOURCE IS ALSO KNOWN AS RICHARD CREEK.
SOURCE IS ALSO KNOWN AS ROCK 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.
3. THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.

Dates and Other Information:

Decreed Date: 10/31/2000
Water District Number: 65

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 1. Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the Part 2B form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: _____

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

[illegible]

Total Acres (for irrigation use) _____

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/14/2011

WATER RIGHT NO. 65-3111X

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/15	2.7 CFS	
Total Diversion			2.7 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM	NWSE	Sec. 03	Township 13N	Range 03E	VALLEY County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION VALLEY County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
13N	03E	3	8	NENE	23	7	NWNE	21		SWNE	8		SENE	31

Total Acres: 83

Conditions of Approval:

1.	THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.
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.	SOURCE IS ALSO KNOWN AS RICHARD CREEK. SOURCE IS ALSO KNOWN AS ROCK CREEK.

Dates:

Licensed Date:

Decreed Date: 10/31/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)

No. L 373		Due no later than Jun 30, 2010		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		1. Mailing Address: Correct in this box if needed. ALLEN RANCH, LLLP J.R. ALLEN 3166 CENTENNIAL AVE BOISE ID 83706		J R ALLEN 3166 CENTENNIAL AVE BOISE ID 83706			
				3. New Registered Agent Signature:*			
Office Held	Name	Street or PO Address	City	State	Country	Postal Code	
GENERAL PARTNER	J.R. ALLEN JR ALLEN CATTLE CO INC	3166 CENTENNIAL AVE	BOISE	ID	USA	83706	
5. Organized Under the Laws of: ID L 373		6. Annual Report must be signed.* Signature: J.r. Allen Name (type or print): J.r. Allen Date: 04/26/2010 Title: General Partner					
Processed 04/26/2010		* Electronically provided signatures are accepted as original signatures.					

IDWR Field Investigation Map 11/18/2010

T13N
R3E
Sec 3

Legend

- 1 DIVERSION 65-3111A-F-X
- 2 DIVERSION 65-13088
- 3 ALLEN UPPER DIVERSION
- 4 ALLEN LOWER DIVERSION
- 5 PIPE IN DITCH
- ▨ 65-3111X POU
- ▨ Township/Range
- ▨ Sections
- ▨ QQ

#3 & 4 ARE points
used for 65-3111X

2009 Aerial Photo

MAR. 15. 2011 3:23PM 7:00 AM CORE SMITH BUXTON NO. 8564 P.

Miles