

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 73890
- AMENDED -

DEC 17 2010

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

Department of Water Resources

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: _____

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
DEPARTMENT OF WATER RESOURCESTransfer No. 73890

Amended

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

Amended

Name of Applicant(s) Sterling Landscape Co., c/o John H. Sterling Phone 208-322-4505Mailing address 4663 Ustick Road, Nampa, ID 83687-8153 Email _____

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

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

☐ No Representative

Name of Representative _____ Phone _____

Mailing address _____ Email _____

☐ Send all correspondence for this application to the representative and not to the applicant.

OR

☐ Send original correspondence to the applicant and copies to the representative.☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


Signature of Applicant or Authorized Representative

John H. Sterling, President
Print Name and Title if applicable

12-16-10
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**. This transfer application changes water right 63-10029 to allow a diversion year round into a pond for aesthetic purposes. This transfer application also, (i) adds a second diversion point (an existing well), and (ii) changes the place of use to describe an existing pond which spans the boundary of two 40 acre subdivisions.

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 ☒ ☐	63-10029	0.67 cfs	Aesthetic	1/1 to 12/31	Ground Water
☐ ☒		6.71 acft	Aesthetic Storage	1/1 to 12/31	Groundwater
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.67 cfs cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 0.67 cfs 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 #
			SW	SW	32	4N	1W	Ada	Ground Water	Original Well
			SW	SW	32	4N	1W	Ada	Ground Water	New Well-existing

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	
4N	1W	32										J	J						

Total Acres (for irrigation use) _____ N/A

* POD added + locations confirmed thru
 01-11-2011 email from applicant (corporate officers).
 SCANNED JAN 11 2011

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: Two wells, valves, ditches, ponds

- 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: Water right shall remain appurtenant to land owned by the applicant.

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: There are no changes to irrigated lands. The existing irrigated lands will continue to be irrigated after this transfer.

- 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: There are no other existing water rights that provide for the commercial use of groundwater on the existing place of use. Other water rights that identify both points of diversion (existing and proposed) include, but may not be limited to the rights provided under IDWR water right no. 63-5015.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|-------------------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☒ | ☐ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: Water Right No. 63-10029 is leased to the Water Supply Bank. Concurrent with applying for this transfer, the applicant will submit a withdrawal of water right 63-10029 from the Water Supply Bank.

Total Acres (for irrigation use)

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

Current Water Right No.: 63-10029

Current Owner: STERLING LANDSCAPE CO
Priority Date: 5/4/1983
Origin: Water Right
Status: Water Supply Bank Active
Basis: Decreed

Source	Tributary		
GROUND WATER			
Beneficial Use	From To	Diversion Rate	Annual Volume
COMMERCIAL	04/01 to 11/01	0.67 CFS	177.4 AF
	Total Diversion	0.67 CFS	177.4 AF
Location of Point(s) of Diversion			
GROUND WATER	SW1/4SW1/4	Sec. 32,	Twp 04N, Rge 01W B.M.
ADA County			

Place of Use

COMMERCIAL Within ADA County

T04N R01W S32 SWSW

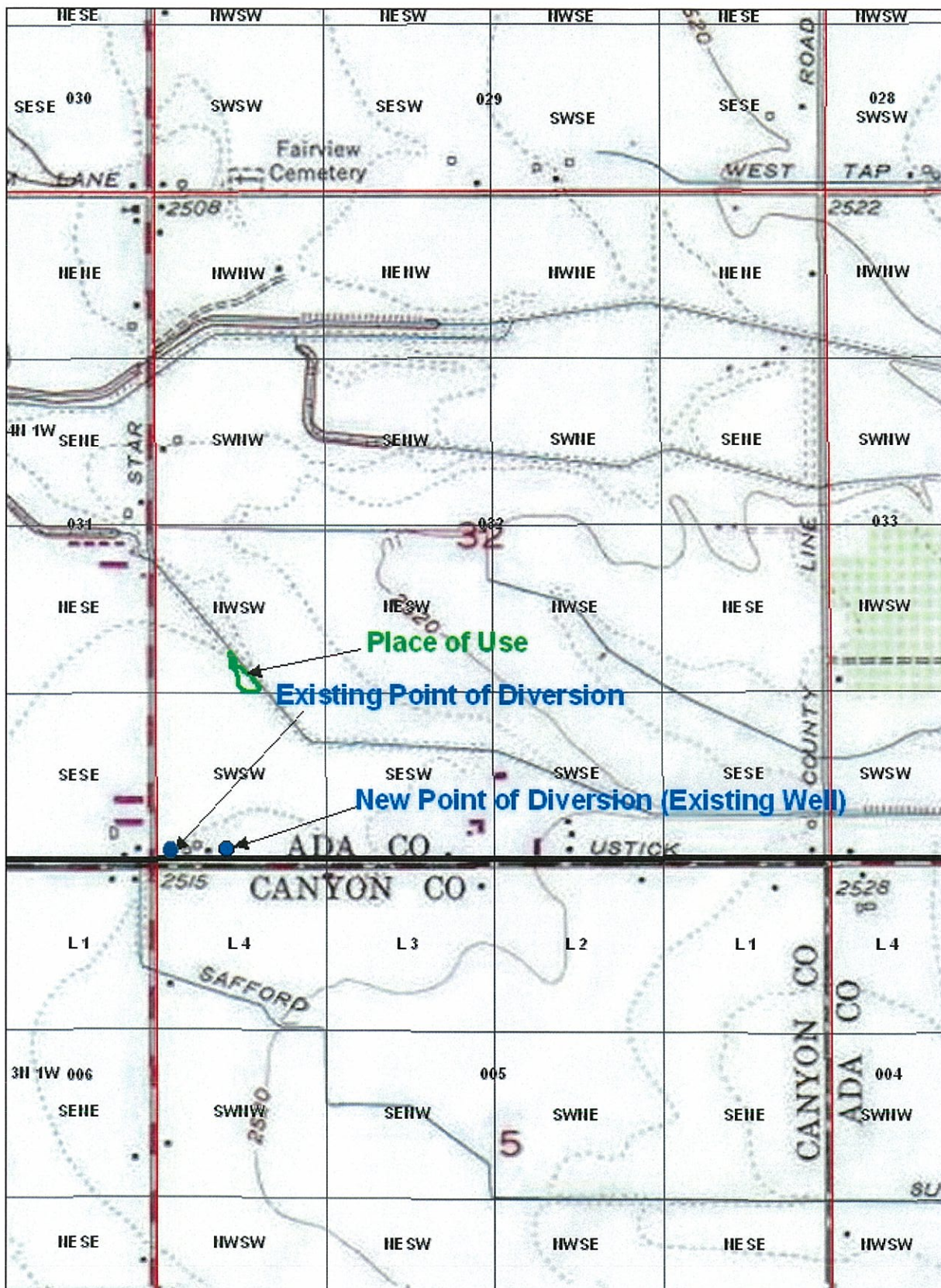
Conditions of Approval:

1. COMMERCIAL USE IS IN A MINT STILL.
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: 2/16/2007

Add'l Fee Paid _____	Date _____	Received by _____	Receipt # _____
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Amended Application for Transfer of Water Right 63-10029 Attachment 7a



1 inch equals 0.21 miles

Section 32 T. 4N R.1W B.M. Ada County, Idaho

Exhibit 8a

Mr. Robert Friday
2748 N. Blue Springs Avenue
Meridian, ID 83642

May 21, 2010

Michelle Edl, Associate Engineer
Water Rights Section, State of Idaho
Department of Water Resources
322 East Front Street
Boise, ID 83720-4946

Re: IDWR Water Right No. 63-10029

Dear Ms. Edl:

I applied for the above referenced water right to cover the water used in a mint processing and distillery operation that I owned and operated in Ada County, Idaho. In addition to processing and distilling mint that I raised on the farm I owned, my distillery was also used to process and distill mint crops raised by other farmers in the local area.

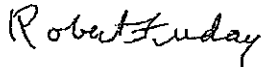
Although the season of use for my operation would vary depending upon crop readiness and weather conditions, the distillery was generally operated from mid June to mid September each year. During a dry, warm spring, the season for processing and distilling mint would begin earlier. For years in which the spring was cool, the season for processing mint would begin a little later. Generally, each year we shut the operation down in mid to late September.

Throughout this season of use, water from the mint processing and distilling operation was discharged to an irrigation ditch and used to irrigate crops raised on my farm.

It is my understanding that you believe there is an error describing the season of use granted for this water right. A period beginning June 15 and ending September 15 each year accurately reflects the timing when mint was processed and distilled at my operation. I hope this will clarify any ambiguity that may exist in your files regarding the season of use for this water right.

Sincerely,

Robert Friday



In addition to the water use described in the above letter, water right number 63-10029 has been leased by the applicant to the Water Supply Bank and leased from said bank for commercial purposes. The water will continue to be available for lease to the Bank until this transfer is approved.