



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

DAVID R. TUTHILL, JR.
Director

February 3, 2009

Junayo Ranch LTD Partnership
Attn: Owen H. Orndorff
1087 W River St, Suite 230
Boise, ID 83702

COPY

Re: Application for Permit No. 57-11695 and Transfer Application Request

Dear Mr. Orndorff:

The Department is currently delaying the processing of your permit application referenced above. Per my letter of March 24, 2008, a transfer is required to correct the place of use for the existing water right(s) currently used for irrigation of public land in Section 19, T02S, R03W (Section 19). Application for Permit No. 57-11695 proposes irrigation of land in Section 19. Processing of the permit application will be delayed until water right authorization for current irrigation practices of this portion of the proposed place of use is determined.

During the January 22, 2008 meeting with the Department, you indicated public land in Section 19 is currently irrigated with water from Tyson Reservoir. There are 3 water rights for irrigation from storage associated with Tyson Reservoir, 57-2325, 57-7040, and 57-7400. The place of use for all, one, or any combination of these rights needs to be changed to authorize irrigation of land in Section from Tyson Reservoir. Per your request, I have prepared and enclosed a draft transfer application proposing a change to the place of use on record for water right 57-7400. I choose to draft the transfer application proposing a change in the place of use for 57-7400 simply because it has the earliest priority date of the three rights. However, as I mentioned before, the transfer can include the two other rights, only one of the other rights, or any combination of the rights. If any other Junayo Ranch LTD Partnership water rights are used for irrigation of the public land from a separate system, i.e. if any of the natural flow right(s) distribution system(s) or other reservoir distribution systems such as Junayo Ranch No. 3 (South) Reservoir are used, an additional/separate transfer application may be required. As the draft indicates, this transfer application shall be filed by Junayo Ranch LTD Partnership in conjunction with the Bureau of Land Management (BLM). If approved, a transfer will split the water right(s) of Tyson Reservoir, and any other distribution systems for which a transfer is applied for, into the Junayo Ranch LTD Partnership portion associated with

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irrigation of private land and the BLM portion associated with irrigation of public land based on current Department understanding that the BLM does not wish to have private entities owning water rights appurtenant to public land. If a different arrangement is made, regarding ownership of the water right(s), between Junayo Ranch LTD Partnership and the BLM, please submit information regarding that arrangement with the transfer application(s). I have enclosed a blank transfer application and instructions for your use.

The Department is concerned injury to existing water rights will occur as a result of the unauthorized use of water for irrigation of the public land within Section 19, specifically because the violation is within the Reynolds Creek Water District. Therefore, the Department strongly urges you to address this issue as soon as possible before further action is necessary. Application(s) seeking proper authorization for irrigation of this land as outlined above or a written commitment to cease and desist all irrigation of public land in Section 19 must be received before further processing of Application for Permit No. 57-11695 can occur. Please complete and submit, in conjunction with the BLM, the requested transfer application(s) required as soon as possible. If no response is received within ninety (90) days the Department will interpret this as a result of due diligence with regard to construction of the new reservoir proposed in the permit application. As such, the Department shall deem the application was not made in good faith and does not propose a valid beneficial use. The permit application will be voided accordingly.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter. I look forward to your reply.

Sincerely,

Angela M. Grimm
Water Resource Agent, Sr.

Enclosure(s): Draft Application for Transfer for Water Right 57-7400
Blank Application for Transfer with instructions

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

**APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST**

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 and water right proof report or details report for Part 2A of the transfer application 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.

- COPY**
- ☒ * 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 Proof Report (obtained from Department) or Details Report (obtained on website) describing each water right in the transfer as currently recorded.
 - ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
 - ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
 - ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☒ ☐ #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/water/rights/>.
- ☐ ☐ #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: Attachment 9A Water Right Portions (Part 1B 1) & Attachment 9B POU (Part 1B 4)

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

Name of Applicant(s) Junayo Ranch LTD Partnership and Bureau of Land Management Phone (208)343-8880/(208)373-4000

Mailing address 1087 W River St Ste 230 Boise 83702 / 1387 S Vinnell Way Boise 83704 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

Print Name and Title if applicable

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

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**. To correct records error in water right coverage of currently irrigated public land in T2S, R3W, Sec. 19.

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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>
Junayo Portion of				to	
57-7400:	4.6 cfs	Div. to Storage	11/15	to 3/15	Reynolds Cr & Snake Rv
	117.0 ac-ft	Irrigation Storage	1/1	to 12/31	Reynolds Cr & Snake Rv
	117.0 ac-ft	Irr. from Storage	3/15	to 11/15	Reynolds Cr & Snake Rv
BLM Portion of				to	
57-7400:	4.6 cfs	Div. to Storage	11/15	to 3/15	Reynolds Cr & Snake Rv
	33.0 ac-ft	Irrigation Storage	1/1	to 12/31	Reynolds Cr & Snake Rv
	33.0 ac-ft	Irr. from Storage	3/15	to 11/15	Reynolds Cr & Snake Rv
				to	
Total <u>4.6</u> cfs and/or <u>117.0 / 33.0</u> ac-ft					

2. Total amount of water being transferred or changed 4.6 cubic feet per second and/or 150 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 #

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	
02S	03W	18									2.0	15.0	2.0						19.0
02S	04W	13				9.0													9.0
02S	04W	24	22.0	4.0	3.0	14.0													43.0
02S	04W	19					15.0	5.0											20.0

Total Acres (for irrigation use) 91.0

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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: Gravity ditch, storage dam and reservoir, ditches; pump & pipeline

- b. Who owns the property at the point(s) of diversion? John & Cathrine Romero

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: Easement to Junayo Ranch

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien:

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

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: Land currently irrigated well continue to be irrigated. Transfer proposes addition of 19 acres currently irrigated with storage water from Tyson Reservoir. I.C. 42-222 allows for an increase in the number of acres irrigated if no other water rights are injured.

- 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: Several other water rights for Junayo Ranch LTD Partnership for the current place of use, point of diversion, and use on file with the Department. No existing water rights for irrigation of the additional 19 acres in T2S, R4W, Sec 19 proposed for addition to the current place of use.

- 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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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 Proof Report (obtained from Department) or Details Report (obtained from website @ <http://www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp>). Label it **Part 2A**.

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.

Right Number: N/A

1.	amount _____ (cfs/ac-ft) for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____
	amount _____ for _____	purposes from _____	to _____

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

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) _____

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APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. PLAT MAP (See Part 3A of Instructions for application for transfer for complete requirements.)

- ☒ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ☒ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

B. CHANGES IN NATURE OF USE (Water Balance)

- ☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it **Attachment #8a**.

C. PLACE OF USE CHANGES TO SUPPLEMENTAL IRRIGATION RIGHTS

- ☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it **Attachment #8b**.

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.:

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Prelim. Check by _____ Date _____

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