

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 76101

SEP 02 2009 APPLICATION FOR TRANSFER OF WATER RIGHT

DEPT. OF WATER RESOURCES
SOUTHERN REGION*Amended #1* PART 1Name of applicant Salmon Falls Land & Livestock CO INC Phone 208-837-6053Post Office address 95-A Bell Rapids Road Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Create PPU.
2. Describe the reason for the proposed changes Purpose of this water right transfer is to create a permissible place of use in order to resolve pending objections in the SRBA by the U.S. Department of the Interior.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount (cfs/ac-ft) Nature of Use Period of Use
- | | | | | |
|---------------|------------------|---------------|-------------------|-----------------------|
| <u>2-7249</u> | <u>2/7/1977</u> | <u>29.89/</u> | <u>Irrigation</u> | <u>04/01 to 10/31</u> |
| <u>2-7462</u> | <u>9/29/1969</u> | <u>20.0/</u> | <u>Irrigation</u> | <u>04/01 to 10/31</u> |
| | | | | to |
| | | | | to |
2. Total amount of water being transferred 29.89/ cubic feet per second and/or 2010 acre-feet per annum.
3. Source of water Snake River tributary to Columbia River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
6		NE	SE	7	08S	14E	TWIN FALLS	PUMP IN SNAKE RIVER

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
08S	13E	10															20.4	20.3	40.7
08S	13E	11	20.1	20.0	40.1	40.2					33.2	40.0	40.1	36.6	29.9	18.5	27.3	29.7	375.7
08S	13E	12						20.3	20.5		40.5	36.0	40.4	40.4	39.9	39.9	40.3	36.5	354.7
08S	13E	13	39.2	37.3	40.3	40.5	40.4	21.8	32.9	40.3	40.2	40.1	40.1	40.2	40.2	40.1	40.2	40.2	613.9
08S	13E	14	34.4	40.0	39.9	29.0	40.0	40.0	39.8	39.8	39.6			39.5	39.9	39.9	39.8	39.8	541.4
08S	13E	15	40.8	40.8	21.8	21.8													125.2
08S	14E	7										31.4	31.7	39.9		28.2	39.8		171.0
08S	14E	18		39.9	39.9		40.0	31.9	31.9	40.1	39.9	31.6	31.3	39.7		39.7	39.7		445.6

PART 1**6. General Information:**

- a. Description of diversion system Existing irrigation system is fully connected and tied together by a series of buried mainlines.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?
☐ Yes ☒ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:
None.
- d. Remarks:
Applicant seeks to create permissible place of use. Irrigated acreage will not increase upon water right transfer approval. No portion of Federeal Lands will be irrigated after transfer approval.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 20____.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 10, 2009

RECEIVED

SEP 02 2009

DEPT. OF WATER RESOURCES
SOUTHERN REGION

CHARLES E BROCKWAY PHD PE
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON STREET SUITE 4
TWIN FALLS ID 83301

RE: Applications for Transfer – KBCP LLC (35-2172) and Salmon Falls Land
and Cattle (2-7249 and 2-7462)

Dear Mr. Brockway:

I have received your letter dated July 20, 2009 regarding the transfer applications referenced above. In your letter you raised questions about Department policy for permissible places of use (PPU) and injury analysis using combined ESPA model reaches as applied to the transfer applications.

Permissible Place of Use (PPU)

You are correct in your understanding that the Department does authorize water rights where the acreage that can be irrigated in one season is limited within a larger defined PPU. The Department has limited written policy on the use of PPU descriptions and the practice has evolved over time as water right enforcement has increased. The PPU concept was originally adopted with the goal to provide some flexibility to the water right owner and avoid the requirement to file a transfer every time a place-of-use change was anticipated within an area where crops would be rotated under their farming operation.

As more water districts have been established since SRBA decrees have been issued, expectations have been raised to administer water rights based on those decrees. Experience has shown that it can be difficult to confirm compliance with acre limits within a PPU unless the watermaster or Department staff is notified of the location where irrigation is anticipated within the PPU. This is especially true where a PPU is significantly larger than the acres authorized to be irrigated in one season under the right(s).

To continue to allow flexibility to the water user without diminishing the Department's or watermaster's ability to administer the rights, the Department has recently applied conditions requiring those larger PPU's to clearly identify the acres intended for irrigation within the PPU and to provide notice to the Department when changes are anticipated. The Department has used the following condition on approvals:

This right is limited to the irrigation of a specific <00.0 acres> within the <00.0 acre> place of use authorized by this right in a single irrigation season. The specific <00.0 acres> to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the <00.0 acres> to be irrigated within the <00.0 acre> place of use, the right holder shall submit a new land list and representative electronic shape file or map to the department prior to the irrigation season in which the change will occur.

Another situation where a PPU might be requested is when the specific location of irrigated acres has not been finally determined within a larger planned project where irrigation may not be the primary purpose of the project (e.g. a 2-acre picnic area within a large industrial complex that covers multiple 40-acre tracts). An application providing for some alternate locations (not the entire complex) could be processed using a PPU. If approvable, the Department will condition a transfer approval to require the water right owner to report the as-built location and provide for an update of the Department's records to limit the place of use to the reported location. For a permit, the Department will confirm the as-built location when conducting a beneficial use field exam and issue a license where the use has been developed.

In your letter you also requested clarification of the need for a PPU to be limited to irrigable acres. Applicants often propose creation of a PPU to include all lands under their ownership, whether irrigable or not. Although a PPU based on ownership boundaries may be easier to describe, experience has shown that such descriptions create ambiguities for compliance efforts and can create complications when ownership changes occur that would split the water right(s). The Department is not intending to require the applicant (or the Department) to make a determination of irrigable acres for all lands within the PPU; however, it is reasonable to expect exclusion of lands that will not be irrigated in the foreseeable future due to water features, lands with excessive slope, roadways and parking lots, or other obstacles that would prevent irrigation. For a permit, the Department will confirm the irrigation locations when conducting a beneficial use field exam and issue a license limiting any PPU to those lands that have actually been part of the irrigation rotation.

Combining Reaches in ESPA Transfer Analysis

Your letter also asked for clarification of the use of combined ESPA model reaches for transfer injury analysis. You noted that former Director Tuthill indicated that utilization of the combined Near Blackfoot to Minidoka reach for determining Snake River reach depletion should be considered for transfer 75147. Transfer 75147 proposed a change in point of diversion from a well located just south of the upper part of American Falls Reservoir to a well located near the river just below the dam at American Falls Reservoir. The combination of the Near Blackfoot to Neeley reach with the Neeley to Minidoka reach was considered acceptable for injury analysis using the ESPA model due to the proximity of the wells to the river, the distance of the move, and location of existing points of diversion and priority dates for rights from the Snake River

Mr. Brockway
August 10, 2009
Page 3 of 3

within the reaches. Similar circumstances for the KBCP LLC transfer justify the same consideration.

I hope this letter provides the clarification you need to submit the applications to the Department for processing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Spackman".

Gary Spackman
Interim Director

cc: Lyle Swank - Eastern Region IDWR
Allen Merritt - Southern Region IDWR
Shelley Keen - IDWR State Office



1 inch equals 1,320 feet

SALMON FALLS LAND & LIVESTOCK CO INC
PROPOSED AMENDED PPU
2006 NAIP AERIAL PHOTO

