

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

76075

OCT 08 2009

Department of Water Resources
Eastern RegionAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Grand Teton Canal Co., Ltd.Phone 208-354-2534Mailing address P.O. Box 1099, Driggs, Idaho 83422

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 Rob Harris, Holden, Kidwell, Hahn & CrapoPhone 208-523-0620Mailing address P.O. Box 50130, Idaho Falls, ID 83405Email rharris@holdenlegal.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.

Robert L. Harris
Signature of Applicant or Authorized Representative

ROBERT L. HARRIS, ATTORNEY
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**. Please see attached.
- _____

76075

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>
22-277A	10 cfs	See attached	4/1	to 10/31	Teton Creek/Teton River
22-277A	99.97	Irrigation	4/1	to 10/31	Teton Creek/Teton River
				to	
				to	
				to	
				to	
				to	
				to	
				to	
Total <u>109.97</u> cfs and/or _____ ac-ft					

2. Total amount of water being transferred or changed 10 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 #

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 RESOURCES

76075

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: Diversion structure consists of a manually-operated mechanical headgate that is currently fitted with a chain and padlock.

- b. Who owns the property at the point(s) of diversion? Other than the applicant.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: Water is diverted under this right in Wyoming pursuant to the Roxanna Decree. The applicant has accessed this diversion for more than a century and owns an easement therefore under statutory right and/or by prescriptive use.

- 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. The boundaries of the place of use are not proposed to be transferred.

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: See Part 1.5.d attached hereto.

- 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: Grand Teton Canal Company also owns water right numbers 22-144 and 22-4140 which include the same place of use as this water right (22-277A). Lands taken out of production for mitigation purposes under water right 22-277A will not be irrigated under water rights 22-144 or 22-4140.

- 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: _____

76075

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 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: 22-277A

[illegible]

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

[illegible]

Part 1A.2:

The purpose of this transfer is to enable shareholders of Grand Teton Canal Company to use their water for storage purposes. The transfer includes the following conditions to ensure that storage does not result in a net increase in depletion to the water supply:

- A) Shareholders will be required to offset or mitigate the consumptive effect of such ponds by retiring irrigated acres and/or providing storage in Fremont-Madison Irrigation District for mitigation purposes. Grand Teton Canal Company will maintain an accounting of all storage ponds, including the location and dimension of the ponds and lands taken out of production or other mitigation used to offset the consumptive effect from such ponds. This accounting will be submitted annually to the Department.
- B) Mitigation is required for all ponds not capable of being filled in a 24-hour period.
- C) All storage ponds that require mitigation shall be lined to prevent seepage.
- D) Water shall annually not be diverted for storage purposes until the earlier to occur of (a) May 15 or (b) the date American Falls Reservoir becomes physically full, unless Fremont-Madison Irrigation District provides written consent to earlier diversion for storage purposes.
- E) This transfer of 10 cfs allows no more than 500 acres may be dried up for mitigation purposes in any given year.

The boundaries for the place of use are not proposed to be changed by this transfer.

Part 1.5.d:

Land now irrigated may be taken out of production to offset or mitigate the consumptive effect of ponds implemented under this right. Grand Teton Canal Company will submit an annual report to the Department specifically identifying lands taken out of production for mitigation purposes.

1.B.1

The nature of use of the portion of the right being changed will appear after the requested change as follows:

Irrigation, diversion to storage, irrigation from storage, recreation storage, aesthetic storage.

Attachment No. 4

Power of Attorney



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

Robert L. Harris
Attorney at Law

1000 Riverwalk Dr., Ste. 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
rharris@holdenlegal.com

Attachment No. 7a
Map - Proposed POD



Grand Teton Canal Co Ltd

SRBA Recommendations: 22-144, 22-277A

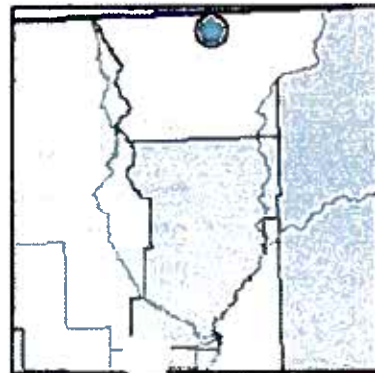
Service Area Boundary
GIS Place of Use Illustration

Legend

Service Area

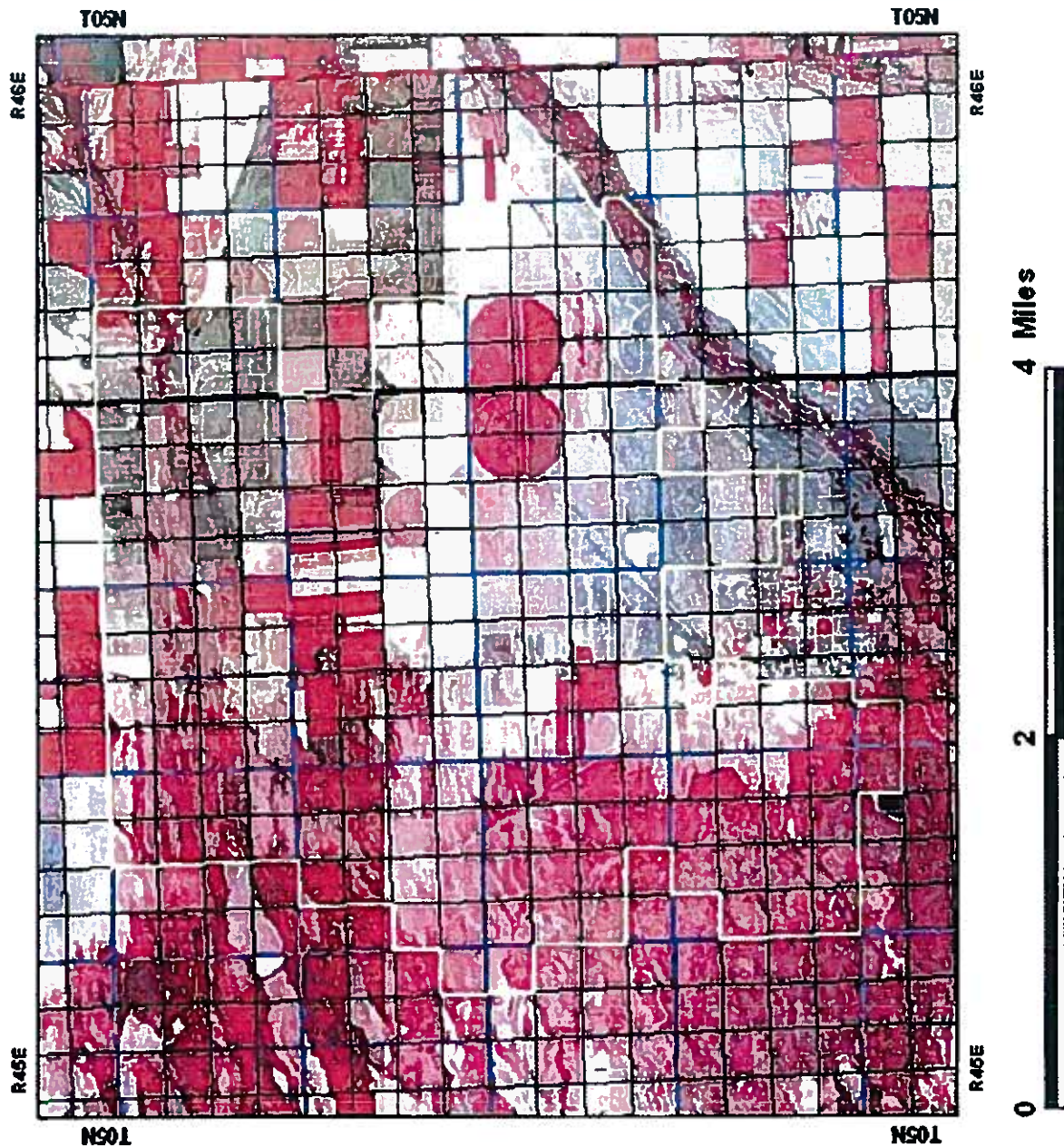


Townships
PLS Sections
Quarter Quarters



Teton County
IDWR Basin 22

Prepared by T. Galbraith
On Saturday, December 16, 2006
1987/88 Aerial Photography



**Attachment No. 8a
Documentation - Historic
Beneficial Use**

76 075

COMMENTS:

1. Mitigation is required for all ponds, not capable of being filled within a 24-hour period.
2. All storage ponds that require mitigation shall be sealed to prevent seepage.
3. Water shall not be overfilled (i.e. for pond safety) until the water is clear (4/11/15) or (15) like the American Falls Impoundment becomes physically full, unless Fremont-Hudson Irrigation District provides written consent to further elevation for storage purposes.
4. Prior to each irrigation season, Canal and River Canal Company shall notify Fremont-Hudson Irrigation District of the volume of storage water (by acre) dedicated to mitigation for pond storage.
5. No more than 500 acres may be diked up for mitigation purposes in any given year.

CDMP CONSIDERATION		
	mm	dc-h / yr
Actual, In-house capital	679	2,128
Actual, In-house selling	667	2,148
Actual, In-house R&D	585	2,375
Actual, In-house Mfg. (excl. R&D)	467	2,202
Actual, In-house Mfg. (incl. R&D)	632	2,504
Grass-plant, low management	464	1,621
Grass-plant, low management	542	1,778
Grass-plant, integrated	570	1,890

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 76075

OCT 08 2009

APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST

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 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.

- ☒ * 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: _____

76075