

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 37-8894
72196

APPLICATION FOR AMENDMENT OF A PERMIT

To appropriate the public waters of the State of Idaho

AUG 01 2005

Name of applicant Dry Creek Partners

Phone (208) 934-4448

Address c/o Bill Novinger, 598 East 1330 South, Gooding, Idaho 83330
Department of Water Resources
Southern Region

I am the owner and holder of Permit to Appropriate the public Waters of the State of Idaho No. 37-8894 and request that the permit and permit map be amended and / or changed as follows:

Purpose of Amendment:

☐ Change point of diversion

☐ Add point of Diversion

☐ Change Place of use

☒ Change nature of use

☐ Change period of use

☐ Other

1. Point of diversion is NE 1/4 NE 1/4, SW 1/4, Section 03
Township 05S Range 14E B.M. _____ County of Gooding

Other points of diversion, if any: 05S14E03NWNWSE

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.):

Amount 5.0 cfs for Wildlife & Aesthetic purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin month) (End month)

Amount 40.0 afa for Wildlife & Aesthetic Storage purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum) (water use) (Begin month) (End month)

3. Place of use or land to be irrigated:

TWP	RANGE	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	
05S	14E	03									X					X			

Total number of acres to be irrigated _____

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

Complete the following map by showing land and point of diversion as proposed by this amendment.
Show $\frac{1}{4}$ $\frac{1}{4}$, section, township, range and ditches. (The smallest subdivision represents 40 acres.)

Scale: 2 inches equal 1 mile

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this _____ day of _____, 20_____.

Permit Holder Signature (and title, if for a company or organization)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by _____ Date _____

Published in _____ Publication dates _____

I, _____, of the Department of Water Resources hereby

Witness my hand this _____ day of _____, 20_____

Dry Creek Landowners
by [Signature], *Gren Parker*
SIGNATURE



Dry Creek Partners: 37-865A & 37-865B

Township 5S, Range 14E

2004 NAIP Aerial Photo

Brockway Engineering, PLLC

DTN - 07/26/2005

LIMITED POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENT:

I, Dry Creek Partners, c/o Bill Novinger, hereby nominate and appoint
Daren T. Nelson (Brockway Engineering, PLLC) as my attorney-in-fact with full
authority to act for and on my behalf to undertake any and all acts or matters pertaining to water
right transfers before the Idaho Department of Water Resources for the following water right
transactions:

Transfer regarding 37-865A & 37-865B
Relinquishment of Permit 37-8893
Amendment of Permit 37-8894

in Gooding County, Idaho. Additionally, I hereby ratify and confirm any
and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal and deliver, as my act in deed, those said
instruments of writing that may be necessary or proper to carry into execution and effect the
applications, and transfers above-mentioned. Further, I hereby declare that each and every
application, transfer, agreement, receipt, or payment which shall be by my said agent given,
made or done for the aforesaid purposes shall be as good, valid, and effectual as if they had
been signed, sealed, and delivered by me in my own proper person; and I hereby undertake at
all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or
concerning the said premises by virtue of these present. This Limited Power of Attorney will
become void upon approval, denial or withdrawal of the above referenced applications.

Dated this 29 day of July, ²⁰⁰⁵~~2001~~.

[Signature]
Signature

State of Idaho)

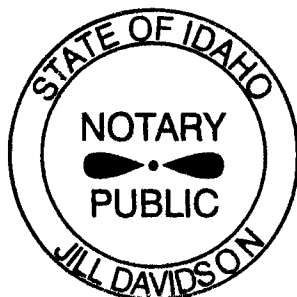
County of Twin Falls)

ss.

On this 29th Day of July, 200⁵~~1~~, before me, a Notary Public
in and for said County and State, personally appeared G. William Novinger,
known or identified to me to be the individual whose name and subscription to the within
instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.

S
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L



[Signature]
Notary Public
In and for said State and County
November 18, 2010
My Commission Expires

Supporting Narrative

Dry Creek Partners

Project #: 347-02-2005

RECEIVED

AUG 01 2005

Department of Water Resources
Southern Region

Brockway Engineering is submitting the attached documents, Application for Transfer of Water Right, Application for Amendment of Permit, and Relinquishment of Permit, on behalf of Dry Creek Partners. In 1999, Bill Novinger of the Dry Creek Partners applied for two permits and a transfer that would provide mitigation under these permits in order to provide water for a dairy that was going to be developed on his property. In order to provide ground water for the dairy the owners had plans to develop an aquifer recharge program, via an in-stream recharge pond located at the confluence of Dry Creek and Black Canyon Creek. Both permits and the transfer were approved for the project, but due to unexpected financial roadblocks, the dairy can no longer be developed.

On January 7, 2002, Charles G. Brockway met with representatives for the Idaho Department of Water Resources (Alan Merritt and Glen Saxton) regarding what action would need to be taken given that the dairy would no longer be developed. The following are taken from a memo in our files that states the recommended actions in which these representatives deemed necessary:

If the dairy will not be developed, Dry Creek Partners needs to:

- 1. Relinquish permit 37-08893, which was the new groundwater withdrawal right for the dairy.*
- 2. Relinquish permit 37-08894, which was the new storage right for the recharge pond including an increase in natural seepage caused by the pond.*
- 3. In some way reverse the effect of Transfer No. 66912 (old No. 5492) for rights 37-00865A and B, which removed 51.4 acres from irrigation, created a new right for recharge to mitigate the dairy permit and the evaporation from the recharge pond, and changed acres around to agree with the late claim filed on 6/25/1999. Whatever is done, the acres that were converted for mitigation purposes must not be lost.*

Since this meeting in 2002 the owners of these rights and permits has decided to proceed with some of these recommendations. However, the owner would still like to develop the 5-acre pond for aesthetic reasons and for wildlife habitat. The owner will be lining the pond and will no longer provide recharge to the aquifer; however, the owner will still need permit 37-8894 to in order to develop this pond and provide storage for these purposes. Thus, an Application for Amendment of a Permit is being submitted to change the uses of permit 37-8894.

Permit 37-8893 originally was approved in order to supply water for the stock and commercial uses in which the dairy would require. Thus, since there will no longer be any aquifer recharge for this ground water withdrawal right and since this dairy will no longer be developed permit 37-8893 will be relinquished.

Before transfer no. 66912 (Rights 37-00865A/37-00865B) was approved, water right 37-865 was used for the irrigation of 280 acres at a rate of 5.6 cfs and 1120 acre-feet annually (afa). Since the development of the dairy was never accomplished, another transfer is being submitted to revert the changes caused by transfer 66912 back to the original description of 37-865. In the original transfer (66912) the place of use described in 37-865B was altered from the original place of use in 37-865 due to the proposed development of the dairy. Since no physical changes have been completed on this irrigation system and since the dairy was never developed, the place of use for 37-865B will be reverted to the original place of use of 37-865, excluding 51.4 acres that was used for mitigation in transfer 66912.

Also in the original transfer (66912), water right 37-865A provided the mitigation for the approval of permit 37-8893 and 37-8894. This mitigation required that 51.4 acres of irrigated land be brought out of production. Forty-six (46) of these acres were to provide for the mitigation of the ground water withdrawal (37-8893) needed for stock and commercial uses for the dairy, and 5.4 acres were needed for the mitigation of the pond evaporation. Regarding this transfer Karl Dreher, the director for IDWR, has stated that the transfer of these rights back to irrigation should result in any reduction of acreage, diversion rate, or total volume from the mitigation of these 46 acres, and the right should be restored to its original status. However, because the pond will still be developed, the 5.4 acres needed in the mitigation for the pond evaporation will still be needed as mitigation in this transfer.

Water right 37-865A will be split into two parts: an irrigation portion and a portion for the mitigation of water that will be evaporated at the pond. The place of use for the irrigation portion of 37-865A will be 46 acres of the original place of use described in the amended claim of 37-865. The place of use for the diversion to storage portion of right 37-865A will be located at the pond and 5.4 acres of the original place of use described in the amended claim of 37-865 will no longer be irrigated.

Thank you for your time and thorough review of these documents. We would appreciate if these documents could be approved and processed as soon as possible. If you have any questions concerning this narrative or the attached documents, please do not hesitate to contact our office.