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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Transfer No. 72373

RECEIVED
 AUG 01 2005
 Department of Water Resources
 Southern Region

Name of applicant Dry Creek Partners Phone (208) 934-4448Post Office address c/o Bill Novinger, 1598 East 1330 South, Gooding, ID 83330**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 Split 37-865A
2. Describe the reason for the proposed changes To restore 37-865 to its original nature of use as was recorded before transfer 66912, to update its place of use to agree with the present irrigation system, and to provide mitigation for a 5 ac pond that will be developed for wildlife & aesthetic purposes.

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
- Portion: ⁻²¹⁶⁰¹ 37-865A 04/01/1905 0.92/184 Irrigation 03/15 to 11/15
- Portion: ⁻²¹⁶⁰² 37-865A 04/01/1905 0.11/21.6* Diversion to Storage 03/15 to 11/15
- 37-865B 04/01/1905 4.57/914.4 Irrigation 03/15 to 11/15
2. Total amount of water being transferred 5.6 cubic feet per second and/or 1120 acre-feet per annum.
3. Source of water Big Wood River tributary to Malad River
4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
2		SW	NW	07	05S	16E	Gooding	

5. Lands irrigated or place of use:

a. Place of use: 37-865A (portion) Irrigation

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	
05S	14E	03			37.8	6.0				0.7						1.5			46

Total acres 46b. Place of use: 37-865A (portion) Diversion to Storage = X

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	
05S	14E	03									X					X			---

Total acres ---

PART 1

c. Place of use: 37-865B Irrigation

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	
05S	14E	02										27.7	2.7						30.4
05S	14E	03				30.8				25.5					37.4	32.2	38.8	33.5	198.2

Total acres 228.6

6. General Information:

a. Description of diversion system existing irrigation distribution system (pivots, booster pumps, etc...) and diversion to storage at a pond that will be developed at the confluence of Black Canyon Creek and Dry Creek.

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:
The land irrigated before the split of 37-865 will remain in production, excluding the 5.4 ac required for the mitigation of the pond evaporation.

d. Remarks:
* Mitigation from the evaporation of the 5 ac pond included of 21.6 afa, 0.11 cfs, and a reduction of 5.4 acres from the original total irrigated area of 37-865 (same values used for evaporation mitigation in transfer 66912).

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 _____, 19 _____.

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DEPARTMENT OF WATER RESOURCESTransfer No. 72373

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

RECEIVED

AUG 01 2005

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: See Attached

Department of Water Resources
Southern Region

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 37-865A on file with the Idaho Department of Water Resources.
- d. Transfer No. 66192 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. check appropriate box below.

☐ Tax notice☐ Warranty Deed☒ Other N/A3. Source of water Big Wood River tributary to Malad River4. Date of priority 04/01/1905

5. Water is used for the following purpose:

Amount ---/138 for Ground Water Recharge From Storage purposes from 03/15 to 11/15
(cfs/ac-ft)

Amount 1.03/154.2 for Diversion to Storage purposes from 03/15 to 11/15
(cfs/ac-ft)

Amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 1.03 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
2		SW	NW	07	05S	16E	GOODING	

8. 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	
05S	14E	03									X					X			

X - Ground water recharge from storage and diversion to storage Total acres _____

9. Describe any other water rights used for the same purpose as described above Big Wood Canal Company
shares and American Falls supplemental water

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

1. Amount 0.92/132.6 for Diversion to Storage purposes from 03/15 to 11/15
 (cfs/ac-ft)
 Amount ---/138 for Ground Water Recharge from Storage purposes from 03/15 to 11/15
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
2		SW	NW	07	05S	16E	GOODING	

3. Lands irrigated or place of use:

- a. Place of use: 37-865A (portion) Ground Water Recharge from Storage = X

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	
05S	14E	03									X					X			---

Total acres ---

- b. Place of use: 37-865A (portion) Diversion to Storage = X

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	
05S	14E	03									X					X			---

Total acres ---

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. Amount 0.11/21.6 for Diversion to Storage purposes from 03/15 to 11/15
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
2		SW	NW	07	05S	16E	GOODING	

3. Lands irrigated or place of use: 37-865A (portion) Diversion to Storage = X

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	
05S	14E	03									X					X			---

Total acres ---

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DEPARTMENT OF WATER RESOURCESTransfer No. 72373APPLICATION FOR TRANSFER OF WATER RIGHT
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A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by: See Attached

Department of Water Resources
Southern Region

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 37-865B on file with the Idaho Department of Water Resources.
- d. Transfer No. 66192 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. check appropriate box below.

☐ Tax notice☐ Warranty Deed☒ Other N/A3. Source of water Big Wood River tributary to Malad River4. Date of priority 04/01/1905

5. Water is used for the following purpose:

Amount 4.57/914.4 for Irrigation purposes from 03/15 to 11/15
(cfs/ac-ft)6. Total amount of water under right 4.57 cubic feet per second and/or 914.4 acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge	County	Local name for diversion
2		SW	NW	07	05S	16E	GOODING	

8. 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	
05S	14E	03			40	40				32.6					7	35.1	39.4		194.1
05S	14E	10		34.5															34.5

Total acres 228.69. Describe any other water rights used for the same purpose as described above Big Wood Canal Company
shares and American Falls supplemental water

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No

If yes, describe _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.**

See Attached: Exhibit A: Dry Creek Partners: Map of 865A & 865B

B. CHANGES IN NATURE OF USE

1.

<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
<u>Irrigation</u>	<u>0.92/184.0</u>	<u>as needed</u>	<u>03/15</u> to <u>11/15</u>
_____	_____	_____	_____ to _____
2. Quantity and quality of return flows and location of discharge:
Water overflows from pumping pond to Black Canyon Creek. No adverse water quality impacts by the project.
3. Describe the effects on other water uses resulting from the proposed change:
None

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

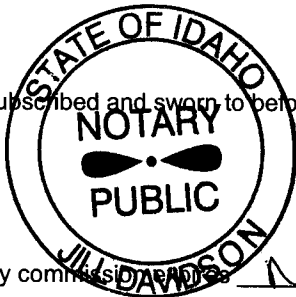
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Dry Creek Partners
 by: [Signature], Gen. Partner
 (Signature of Applicant)

Subscribed and sworn to before me this 29TH day of July, 2005.

[Signature]
 (Notary Public)

My commission expires November 18, 2010



FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 2 attachmentsReceived by JK Date 8/1/05 Protest filed by _____Prelim. check by JK Fee 450⁰⁰Receipted by JK Date 8/4/05 5027888

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ Approval ☐ Denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

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.

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, ~~2001~~ ²⁰⁰⁵.

[Signature]
Signature

State of Idaho)

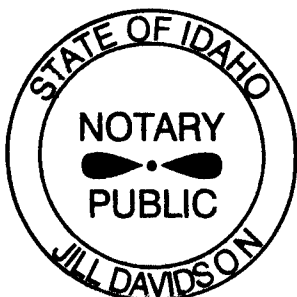
County of Twin Falls)

ss.

On this 29TH Day of July, 200~~1~~⁵, 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
E
A
L



[Signature]
Notary Public

In and for said State and County

November 18, 2010
My Commission Expires