

RECEIVED

JAN 11 2024

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

MINIMUM REQUIREMENTS CHECKLIST

Department of Water Resources
Eastern Region
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

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, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at idwr.idaho.gov.

Name of Applicant(s) Lee H. Sutton

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 [Part 2A](#) report 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 #1-10.

- ☐ ☒ #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 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). **
** Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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 <https://idwr.idaho.gov/water-rights/transfers/resources/>.
- ☒ ☐ #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. If some or all of any right is leased to the Water Supply Bank, you must also show the the specific location and/or acres to be idled at the new, proposed place of use to satisfy lease requirements.
- ☐ ☒ #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.) Additional fee required for proposed changes to nature of use; see [fee schedule](#).
- ☐ ☒ #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 Water Supply Bank information for all rights proposed for transfer and currently leased to the Bank. ([Attachment WSB](#))
- ☒ ☐ #10 Other. Please describe: Consent from Munns Trust.

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Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Lee H. Sutton Phone 208-356-6392
 Mailing address 1577 E. 10000 S., Rexburg, Idaho 83440-4651 Email lhsutt@ida.net

- ☐ 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 Robert L. Harris Phone 208-523-0620
 Mailing address HKHC, PO Box 50130, Idaho Falls, Idaho 83402 Email 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.

Lee H. Sutton
 Signature of Applicant or Authorized Representative

Lee H. Sutton
 Print Name and Title if applicable

Dec. 19, 2023
 Date

 Signature of Applicant or Authorized Representative

 Print Name and Title if applicable

 Date

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
☐ Change nature of use
☐ Add diversion point(s)
☐ Change period of use
☒ Change place of use
☒ Other Amend existing PPU
- Is this a transfer for changes pursuant to Idaho Code § 42-221.O.8?
 If yes, ☐ attach an explanation and any supporting documentation labeled as **Part 1A.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.3**.
 After title to two water rights under this application has been vested in the name of the applicant, this transfer proposed to update the PPU for the water rights. Additionally, the applicant desires to be able to use water for planned new 1/2 pivot. Also to correct what appears to be clerical error for 22-2242A season of use (from 11/01 to 10/31).

STATE OF IDAHO
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>
All or Part ☒ ☐	22-2242B	6.16/1435	Irrigation	04/01 to 10/31	Groundwater
☒ ☐	22-10897	5.52/1288	Irrigation	04/01 to 10/31	Groundwater
☒ ☐	22-2242A	0.9/210	Irrigation	04/01 to 10/31	Groundwater
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 12.58 (incl enlg) cfs and/or 2933 acre-feet.

2. Total amount of water proposed to be transferred or changed 7.06 cubic feet per second and/or 2933 acre-feet per year.

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	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract.)

- ☐ No changes to place of use are proposed - the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
				SEE	ATT	ACH	ED		SPR	EAD	SHE	ET							
Total Acres (for irrigation use)																			1010

PERMISSIBLE PLACE OF USE DESCRIPTION AFTER PROPOSED CHANGES

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	40E	1						23	40			29	0.4						92.4
		2	38	21	37	40					39	39	40	38	40	40	40	18	430
		3	32	36	38	36	5.1			5.9					33	6.7		34	226.7
		10	12		0.5	26													38.5
		11		11.2	39		29	38	31	16	8.8					40	9.4		222.4
TOTAL																			1010

PERMISSIBLE PLACE OF USE DESCRIPTION BEFORE PROPOSED CHANGES

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	40E	1						23	40			29	0.4						92.4
		2	38	21	37	40						39	40	38	40	20	40	18	371
		3	32	36	38	36	5.1			5.9					33	6.7		34	226.7
		10	12		0.5	26													38.5
		11		7.6			29	38	31	9.8									115.4
TOTAL																			844

CHANGE IN ACRES

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	40E	1																	
		2									39					20			59
		3																	
		10																	
		11		3.6	39					6.2	8.8					40	9.4		107
TOTAL																			166

LEE H. SUTTON WATER RIGHTS BEFORE TRANSFER																
Type	Basin	Sequence	Suffix	Basis	Priority Date	Div. Rate (cfs)	Combined Div. Rate (cfs)	Div. Volume (AF)	Combined Div. Volume (AF)	Irrigated Acres	Combined Acres	Permissible Place of Use	Point of Diversion	Source	Water Use	Owner
WR	22	2242	B	Decreed	1/28/1965	6.16	6.16	1435	2614.7	410	778	844	4N 40E 2 NWSESW	GROUND WATER	IRRIGATION	LEE H. SUTTON
WR	22	10897		Decreed	4/12/1994 (enlg) (6/20/1976)	5.52		1288		368						
WR	22	2242	A	Decreed	1/28/1965	0.9		None		210						
TOTALS						11.68	6.16	2723	2614.7	778	778	844				

LEE H. SUTTON WATER RIGHTS AFTER TRANSFER																
Type	Basin	Sequence	Suffix	Basis	Priority Date	Div. Rate (cfs)	Combined Div. Rate (cfs)	Div. Volume (AF)	Combined Div. Volume (AF)	Irrigated Acres	Combined Acres	Permissible Place of Use	Point of Diversion	Source	Water Use	Owner
WR	22	2242	B	Decreed	1/28/1965	6.16	7.06	1435	2824.7	410	838	1010	4N 40E 2 NWSESW	GROUND WATER	IRRIGATION	LEE H. SUTTON
WR	22	10897		Decreed	4/12/1994 (enlg) (6/20/1976)	5.52		1288		368						
WR	22	2242	A	Decreed	1/28/1965	0.9		210		60						
					TOTALS	12.58	7.06	2933	2824.7	838	838	1010				

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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:
Well and pump into mainlines for distribution to center pivots and handlines. A new mainline will be extended south from existing mainlines to location of new 1/2 pivot.
- b. Who owns the property at the point(s) of diversion? Applicant.
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
- 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: See attached consent.
- 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. Are any of the water rights proposed for transfer currently leased to the Water Supply Bank?
If yes, ☐ complete Attachment WSB.
- e. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:
Change to PPU acreage after combination of additional 60 acres under WR 22-2242A, as well as addition of area to be irrigated under a half pivot.
- f. 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:
None.
- g. 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:

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

12/18/2023

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 22-2242B

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LEE H SUTTON 1577 E 10000 S REXBURG, ID 83440-4651 2083566392
Original Owner	RICHARD THOMAS SUTTON 7586 W PORTNEUF RD POCATELLO, ID 83204 2082323227
Original Owner	ESTATE OF JESSE L SUTTON
Original Owner	KENT V SUTTON 9471 S 600 E REXBURG, ID 83440 2083566392
Security Interest	THE BANK OF COMMERCE C/O WESTERN AGCREDIT PO BOX 95850 SOUTH JORDAN, UT 84095-0850
Security Interest	THE BANK OF COMMERCE C/O WESTERN AGCREDIT PO BOX 95850 SOUTH JORDAN, UT 84095-0850 8015719200

Priority Date: 01/28/1965

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	6.16 CFS	1435 AFA
Total Diversion			6.16 CFS	1435 AFA

Location of Point(s) of Diversion:

GROUND WATER | NWSESW | Sec. 02 | Township 04N | Range 40E | MADISON County

IRRIGATION Use:

Acre Limit: 410

Place(s) of use:

Place of Use Legal Description: IRRIGATION MADISON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	40E	1		NWNW	23		SWNW	40						
				NWSW	29		SWSW	0.4						
		2		NENE	38		NWNE	21		SWNE	37		SENE	40
				NWSW	39		SWSW	40		SESW	38			
				NESE	40		NWSE	20		SWSE	40		SESE	18
				NENE	32		NWNE	36		SWNE	38		SENE	36
		3		NENW	5.1		SENE	5.9						
				NESE	33		NWSE	6.7		SESE	34			
				NENE	12		SWNE	0.5		SENE	26			
		10		NWNE	7.6									
		11		NENW	29		NWNW	38		SWNW	31		SENE	9.8

Total Acres: 844

Conditions of Approval:

1. X27 This right is limited to the irrigation of 410.0 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 22-2242B and 22-10897 when combined shall not exceed a total diversion rate of 6.16 cfs, a total annual maximum diversion volume of 2614.7 af at the field headgate, and the irrigation of 778.0 acres.
3. 206 Rights 22-2242B and 22-10897 are limited to the irrigation of a specific 778.0 acres within the 844.0 acre place of use authorized by this right in a single irrigation season. The specific 778.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 778.0 acres to be irrigated within the 844.0 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.
4. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

5. K01 Right No. 22-10897 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
6. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
7. 004 This right does not grant any right-of-way or easement across the land of another.
8. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 11/24/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: Or

Water District Number: 100

Generic Max Rate per Acre: 0.02

Generic Max Volume per Acre: 3.5

Combined Acres Limit: 778

Combined Volume Limit: 2614.7

Combined Rate Limit: 6.16

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

12/18/2023

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 22-10897

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LEE H SUTTON 1577 E 10000 S REXBURG, ID 83440-4651 2083566392
Security Interest	THE BANK OF COMMERCE C/O WESTERN AGCREDIT PO BOX 95850 SOUTH JORDAN, UT 84095-0850

Priority Date: 06/20/1976

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	5.52 CFS	1288 AFA
Total Diversion			5.52 CFS	1288 AFA

Location of Point(s) of Diversion:

GROUND WATER|NWSESW|Sec. 02|Township 04N|Range 40E|MADISON County

IRRIGATION Use:

Acre Limit: 368

Place(s) of use:

Place of Use Legal Description: IRRIGATION MADISON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	40E	1		NWNW	23		SWNW	40						
				NWSW	29		SWSW	0.4						

88753

2	NE	38	NWNE	21	SE	37	SENE	40
	NWSW	39	SWSW	40	SESW	38		
	NESE	40	NWSE	20	SWSE	40	SESE	18
3	NENE	32	NWNE	36	SWNE	38	SENE	36
	NENW	5.1	SENW	5.9				
	NESE	33	NWSE	6.7	SESE	34		
10	NENE	12	SWNE	0.5	SENE	26		
11	NWNE	7.6						
	NENW	29	NWNW	38	SWNW	31	SENW	9.8

Total Acres: 844

Conditions of Approval:

1. K09 This right is for an enlargement of 368.0 acres within the place of use described for this right.
2. X35 Rights 22-2242B and 22-10897 when combined shall not exceed a total diversion rate of 6.16 cfs, a total annual maximum diversion volume of 2614.7 af at the field headgate, and the irrigation of 778.0 acres.
3. 206 Rights 22-2242B and 22-10897 are limited to the irrigation of a specific 778.0 acres within the 844.0 acre place of use authorized by this right in a single irrigation season. The specific 778.0 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 778.0 acres to be irrigated within the 844.0 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.
4. 01M After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. R63 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
6. K02 This right is based upon an enlargement of Right No. 22-2242B pursuant to Section 42-1426, Idaho Code.
7. C11 This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.
8. 004 This right does not grant any right-of-way or easement across the land of another.
9. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

11. T19 Pursuant to Section 42-412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

Dates:

Licensed Date:

Decreed Date: 11/24/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date: 4/12/1994

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: Or

Water District Number: 100

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 778

Combined Volume Limit: 2614.7

Combined Rate Limit: 6.16

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT REPORT

12/18/2023

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. 22-2242A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LEE H SUTTON 1577 E 10000 S REXBURG, ID 83440-4651 2083566392
Original Owner	RANDALL D SUTTON 1628 W 8200 S REXBURG, ID 83440 2083563409

Priority Date: 01/28/1965

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	11/01	0.9 CFS	210 AFA
Total Diversion			0.9 CFS	210 AFA

Location of Point(s) of Diversion:

GROUND WATER | NWSESW | Sec. 02 | Township 04N | Range 40E | MADISON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION MADISON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	40E	2		NESW	40									
				NWSE	20									

Total Acres: 60

Conditions of Approval:

88753

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. F05 Right Nos. 22-2242B and 22-10897 are also diverted through point of diversion described above.

Dates:

Licensed Date:

Decreed Date: 11/24/2008

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 100

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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.

If any part of the irrigation water right is leased to the Water Supply Bank, you must also specify the location and number of acres that will remain idled for the duration of the lease contract at the new, proposed place of use.

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**.

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:

[illegible]

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Preliminary check by _____ Date _____

Fee paid \$1,060.00 Date 1/11/24 Received by CPH Receipt # E049730

Add'l fee paid	Date	Received by	Receipt #
----------------	------	-------------	-----------

Check all that apply: Attachment WSB ☐ (copy sent to state office) Lessor Designation form ☐ &/or W-9 ☐ (originals to state office)

Attachment No. 4

Power of Attorney

[Search again](#)

Results (as of 1/5/24)

Robert Lynn Harris

Status

Active

Admittance Date

09/30/2004

Firm

Holden, Kidwell, Hahn & Crapo, PLLC

Mailing Address

PO Box 50130

Idaho Falls, ID 83405

Phone

(208) 523-0620

Phone Ext**Fax**

(208) 523-9518

Bar Email Address

rharris@holdenlegal.com

Website Address

www.holdenlegal.com

Court eService Email

efiling@holdenlegal.com

Need a correction?

Is something not correct? Please use the Address Change Form

The information above is based on the Idaho State Bar records as of the date listed above. To send us an update on your own listing, please use the online Address Change Form or send an email to the Licensing Department. Please notify the Licensing Department if you find that another attorney's information is incorrect. Questions on attorney status and good standing should also be directed to the Licensing Department at (208) 334-4500.

Attachment No. 6

Lien Holder Authorization

December 26, 2023

To: Idaho Department of Water Resources

From: Ryan Howell, Chief Operating Officer, Western AgCredit, FLCA, Servicing Agent.

Subject: Application for Transfer of Water Right Nos. 22-2242B, 22-10897, and 22-2242A.

Lee H. Sutton ("Sutton") is the owner of Water Right No(s). 22-2242B, 22-10897, and 22-2242A (the "Water Rights").

The Bank of Commerce is the mortgagee for certain property owned by Lee H. Sutton (Owner), which includes property that is authorized for irrigation by the Water Rights as recorded in Madison County #441332. The mortgage is being serviced by Western AgCredit, FLCA (Lender).

A water right transfer application concerning the Water Rights has been filed or will be filed by Sutton which proposes to amend the place of use and the permissible place of use of the Water Rights as depicted on the attached map. It is the Lender's understanding that the amendment is proposed to rearrange the place of use of the Water Rights to improve Sutton's farming operations.

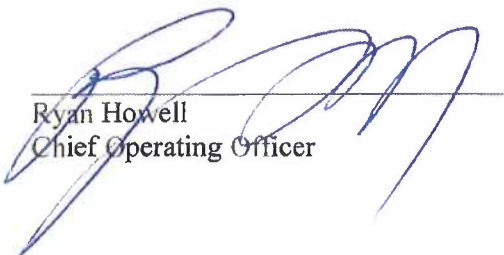
This document will serve to convey Lender's consent to Sutton's amendment. This consent **does not** release the security interest of the Bank of Commerce (or any rights held by Lender) to the land described in the mortgage or Water Rights. Rather, this document merely evidences Lender's consent to the amendment of the Water Rights. Upon Lender's request, and at Lender's sole discretion, Sutton will move any authorized irrigated acres under the Water Rights back to property described in the Bank of Commerce mortgage.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct. Idaho Code § 9-1406; Idaho Rule of Civil Procedure 2.7.

The Bank of Commerce
By: Western AgCredit, FLCA, Servicing Agent

Date: 12-28-2023

By:


Ryan Howell
Chief Operating Officer

Acknowledgement of Owner and Borrower

Date: 12-28-23

LHS HOLDINGS, LLC, an Idaho Limited Liability Company

By: Lee H. Sutton (Manager)
LEE H. SUTTON, Manager

L & H SUTTON FARMS LLC, an Idaho Limited Liability Company

By: LHS HOLDINGS, LLC, an Idaho Limited Liability Company, Manager

By: Lee H. Sutton
LEE H. SUTTON

Lee H. Sutton
LEE H. SUTTON



Attachment No. 7a

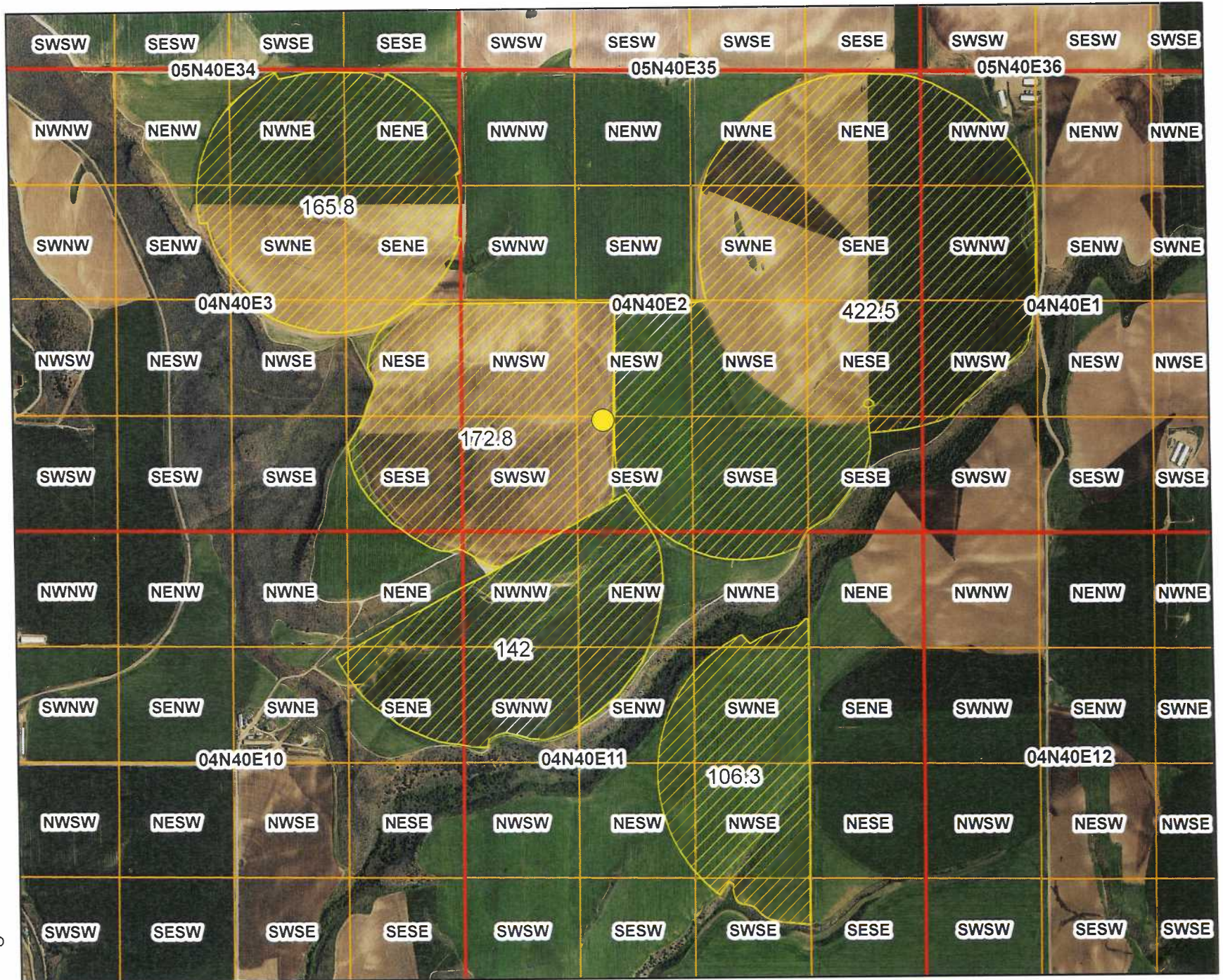
Map

SUTTON TRANSFER APPLICATION

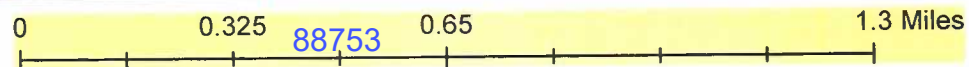


Legend

-  Sutton_POD
-  New PPU
-  Section Lines
-  Quarter Quarters



Prepared by:
Robert L. Harris
2021 NAIP Aerial Photo

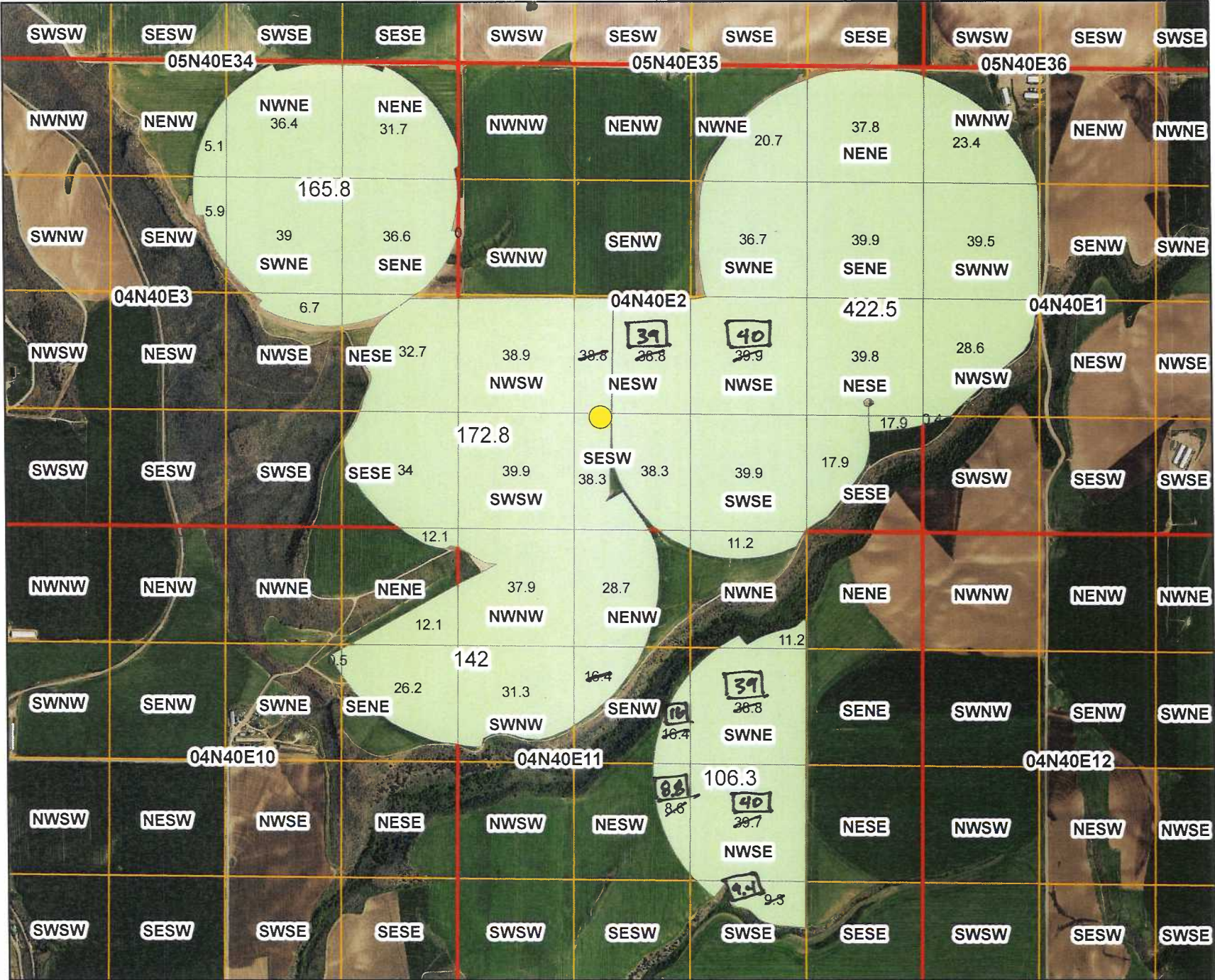


SUTTON TRANSFER APPLICATION

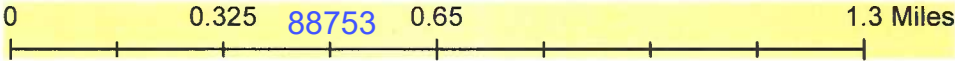


Legend

- Sutton_POD
- Acres By QQ
- New PPU
- Section Lines
- Quarter Quarters



Prepared by:
Robert L. Harris
2021 NAIP Aerial Photo



Attachment No. 7b
Map (GIS shapefile)

GIS shapefiles will be emailed upon request to the Applicant's representative.

Attachment No. 10

Other

_____, 202____

To: Idaho Department of Water Resources

From: Bonnie J. Munns, as sole trustee of the Bonnie J. Munns Survivor Trust, dated April 26, 2015.

Subject: Application for Transfer of Water Right Nos. 22-2242B, 22-10897, and 22-2242A.

Lee H. Sutton ("Sutton") is the owner of Water Right No(s). 22-2242B, 22-10897, and 22-2242A (the "Water Rights").

Bonnie J. Munns, as sole trustee of the Bonnie J. Munns Survivor Trust, dated April 26, 2015 (the "Munns Trust"), is the owner of eighty (80) acres of land described as Township 4N., Range 40E., Section 11, W1/2SE1/4 (the "Munns Trust Property").

A water right transfer application concerning the Water Rights has been filed or will be filed by Sutton with proposes to amend the place of use and the permissible place of use of the Water Rights to cover the Munns Trust Property.

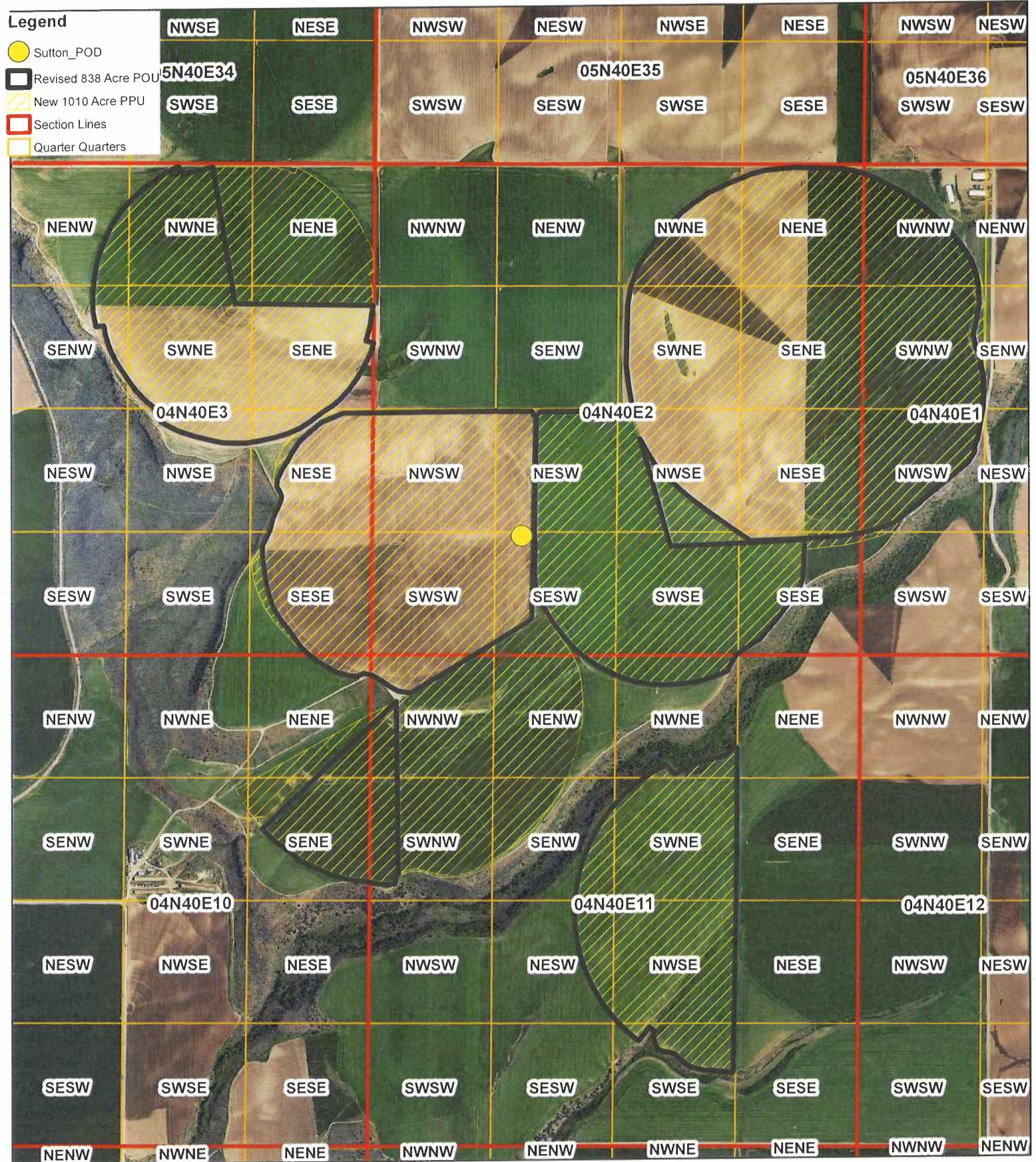
Sutton currently leases the Munns Trust Property from the Munns Trust.

The Munns Trust consents to Sutton's transfer as described herein. This consent is made with the clear understanding that this consent (1) does not transfer title to the Munns Trust Property to Sutton or anyone else; and (2) that title to the Water Rights will remain in Sutton's name, even though it is authorized to irrigate the Munns Trust Property, as title to the Water Rights can only be transferred upon execution and recording of a deed for the Water Rights. In short, this consent only authorizes the transfer (amendment) of the Water Rights to irrigate the Munns Trust Property.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct. Idaho Code § 9-1406; Idaho Rule of Civil Procedure 2.7.

Bonnie J. Munns
Bonnie J. Munns,
as sole trustee of the Bonnie J. Munns Survivor Trust,
dated April 26, 2015

Date: Dec. 28, 2023



A horizontal number line representing distance in miles. The line starts at 0 and ends at 1.2. Major tick marks are labeled at 0, 0.3, 0.6, and 1.2. There are also minor tick marks at intervals of 0.1 (0.1, 0.2, 0.4, 0.5, 0.7, 0.8, 0.9, 1.0, 1.1). The value 0.88753 is marked on the line, positioned between the 0.8 and 0.9 tick marks, closer to 0.9.



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

Established in 1896

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405
Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
rharris@holdenlegal.com

January 9, 2024

RECEIVED

JAN 11 2024

Eastern Region Office
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Department of Water Resources
Eastern Region

**RE: Application for Transfer for WR 22-2242B, WR 22-10897, and WR 22-2242A,
Filed in the Name of Lee H. Sutton.**

Dear Reviewing Agent:

Enclosed for processing is a completed *Application for Transfer* for the above-referenced water rights. As described in the Application, it proposes to combine the above three rights after title to two of the rights is now in the name of the Applicant, Lee Sutton. Additionally, one of the half pivots under the existing place of use has substandard soil, which needs to be rested and rotated in conjunction with a new pivot that is awaiting installation on property leased by the Applicant.

The Transfer proposes to combine the above-referenced water rights to allow for the combined diversion of 7.06 cfs for the irrigation of 838 acres within a 1,010-acre permissible place of use. In addition to the revised permissible place of use, we have depicted the revised 838-acre actual place of use on the enclosed maps. Upon email request, we will email IDWR the GIS shapefiles generated for this transfer.

Enclosed is a check in the amount of \$1,060.00 for the filing fee associated with a transfer of this type. Where there is no proposed change in the point of diversion of the above water rights, and the only amendments relate to the place of use and permissible place of use of the water rights, it is our understanding that this transfer will not be advertised under Department policies and procedures. If the Department does decide to advertise the transfer, please let us know.

We appreciate your assistance in the review and processing of this Application. If you have any questions or concerns, please let me know.

IDWR
January 9, 2024
Page 2 of 2

Best regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

\\law\data\wpdata\rlh\16818 sutton, lee\04 - transfer\2024.01.09 ltr to idwr.docx