

JAN 31 2024

Rev. 07/18

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DEPT. OF WATER RESOURCES
EASTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Andy Povey Phone 208 243 2192
Mailing address 2412 Povey Road Email apov92@aol.com

- ☐ 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 _____ Phone _____
Mailing address _____ Email _____

☐ 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.

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

1-29-24

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

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. 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**.

3. 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**.

Each pivot to have equivalent acres (acres in NE 1/4 = acres in NW 1/4 = 130). Rock piles currently uncovered by the water right in the NE 1/4 need to be covered by the rearranged right. Therefore, I will turn off my endguns in the SW 1/4 of each quarter section. Both pivots are same size so legal description and shape are the same in both QQ.

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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.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	35-13521	3.67	Irrigation	04/01 to 10/31	Ground Water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 3.67 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.06 cubic feet per second and/or _____ 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	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	
06S	29E	35	33.3	33.3	30.1	33.3	33.3	33.3	30.1	33.3									260
Total Acres (for irrigation use)																			260

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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:

One pump to two pivots with a measuring device

- 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: _____

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:

N/A

- 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:

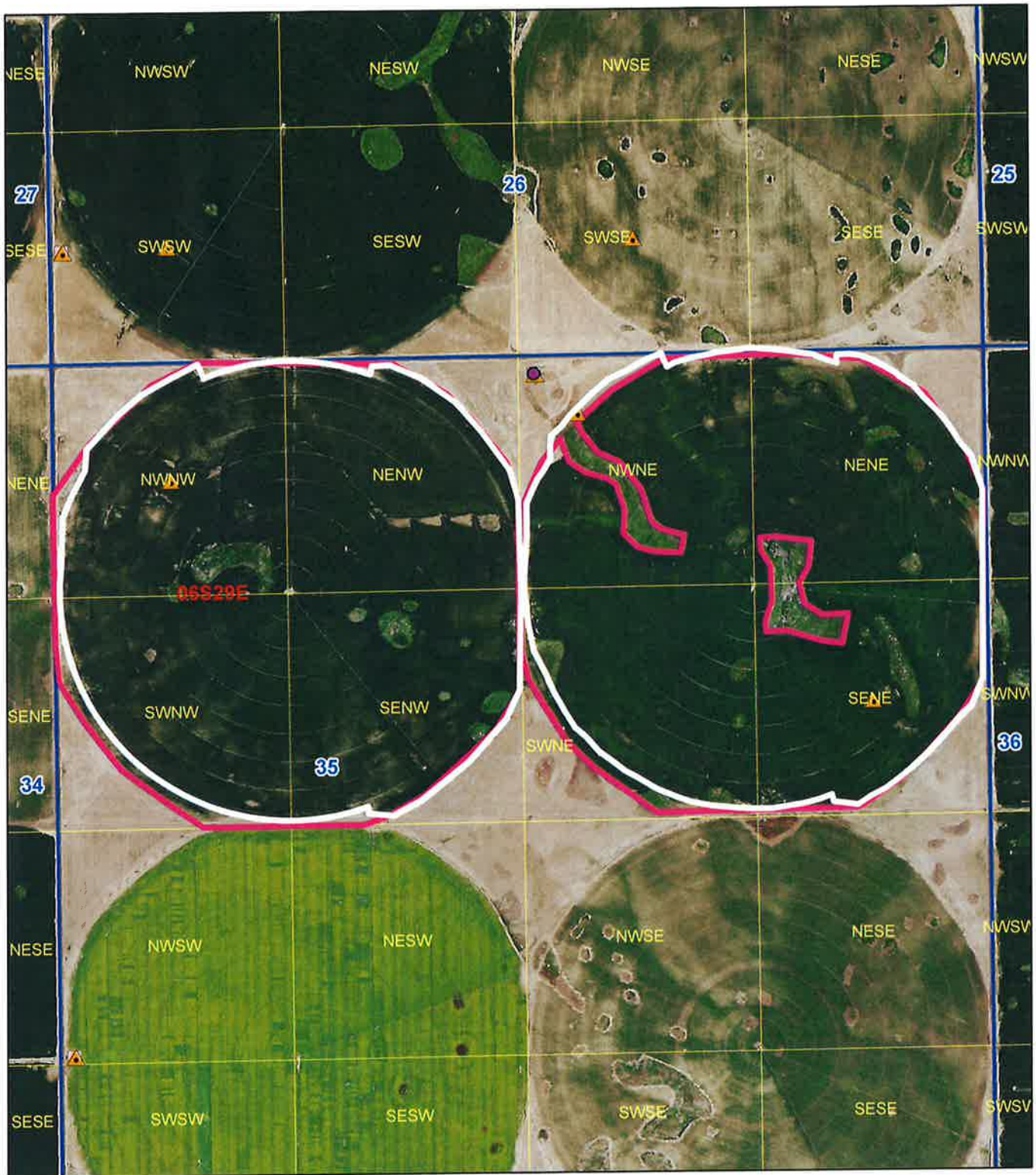
- g. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

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? |

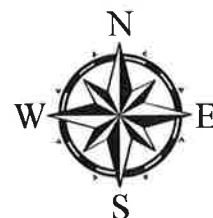
If yes, describe:

35-13521 Place of Use Change Transfer



Legend

- Post-Place_of_Use_to_combine
- Township/Range
- Sections
- QQ



0 0.125 0.25 0.5 Miles

88782

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

2/26/2024

Water Right 35-13521

Owner Type **Name and Address**
Current Owner ANDREW E POVEY
2412 POVEY RD
AMERICAN FALLS, ID 83211-5107
(208) 243-2192

Current Owner NORTHWEST FARM CREDIT
SERVICES FLCA
73 FORT HALL
AMERICAN FALLS, ID 83211
(208) 226-1340

Priority Date: 8/31/2004

Basis: License

Status: Active

Source
GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	3.670 CFS	1,040.0 AF
	Total Diversion		3.670 CFS	1,040.0 AF

Source and Point(s) of Diversion:

GROUND WATER NWNWNE Sec. 35, Twp 06S, Rge 29E, POWER County

Place Of Use:

IRRIGATION within POWER County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	29E	35	32.0	30.0	32.0	32.0	34.0	34.0	32.0	34.0									260.0

POU Total Acres: 260.0

Conditions of Approval:

1. 170 To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water rights will be changed to show that diversion and use of water is not authorized because the rights, or portions thereof, are being dedicated to mitigation purposes. Right No. Use Changed to Mitigation
Mitigation Rate Mitigation Volume Acres 35-14581 Irrigation

Proof Report

1.99 cfs 383.2 95.8 35-14582
 Irrigation 0.87 cfs 296.8
 74.2 The land that will no longer be irrigated under these rights is located within W1/2NE, E1/2NW, NWNW, S17; SENE, S18; T04S, R31E. 36-16625 Irrigation 0.11 cfs 20.8
 5.2 36-16627 Irrigation 0.16 cfs 31.2
 7.8 36-16629 Irrigation 0.04 cfs
 7.6 1.9 36-16631 Irrigation
 0.01 cfs 4.4 1.1 The land that will no longer be irrigated under these rights is located within NWSE, S24, T08S, R21E. 43-13802 Irrigation 0.84 cfs
 200.0 50.0 43-13803 Irrigation 0.15 cfs
 96.0 24.0 The land that will no longer be irrigated under these rights is located within N1/2NE, SWNE, S02, T10S, R26E. If the specified mitigation rights, or portions thereof, are sold, transferred, leased, used on any place of use, or are not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this permit shall be reduced by the same proportion as the reduction to the mitigation rights.

2. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120. In addition, use of water under the mitigation rights will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, the mitigation rights are located within Water District No. 120 and Water District No. 130.

3. The watermasters of Water District Nos. 120 and 130 are instructed to obtain and report annual water diversions under both this right and the mitigation rights to assure compliance with the mitigation requirements of this water right. GIS shape files for the place of use of each of the above mitigation rights will be obtained, reviewed, and retained in IDWR files for the rights.

4. R02 A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.

5. 214 Prior to the diversion and use of water under this right, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.

6. 213 Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

7. R64 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.

8. 933 This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.

9. 935 Use of water pursuant to this right is either nonconsumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water

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Proof Report

10. 140 resulting from the use of this right. Regulation of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required.
- Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.

Dates and Other Information:

Licensed Date: 4/16/2018

Owner Name Connector: And

Water District Number: 120

Generic Max Rate Per Acre: 0.020

Generic Max Volume Per Acre: 4.0

Swan Falls Trust or Nontrust: T

Mitigation Plan: True

Combined Use Limits:

N/A

SubCase:

N/A

Water Supply Bank:

N/A

MEMORANDUM

Date: February 29, 2024
To: Transfer 88782
From: Cooper Fritz
Re: Legal Notice Not Required

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.