

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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APR 09 2024

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1

Name of Applicant(s) Shaw Capital Inc. Phone (801) 597-8225 DEPT. OF WATER RESOURCES
EASTERN REGION
Mailing address 2184 Channing Way #439, Idaho Falls, ID 83404 Email jake@mountainmalt.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.

Jake P. Butenshaw
Signature of Applicant or Authorized Representative

Jake Butenshaw - Owner
Print Name and Title if applicable

4/9/24
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 Update ownership records
- 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**.
This transfer proposes to update the place of use for ground water right 25-7563. This right was developed as a stand-alone, primary ground water right and has been used that way since its development. In recent years (since 2017), the ground water right has been held unused as part of the IGWA Mitigation Plan.

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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.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	25-7563	2.96 cfs	Irrigation	4/1 to 10/31	Ground Water
☒ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.96 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed 0.52 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	
03N	39E	13		0.5	30.5		2.5		34.5	40									108
		14			3.5	36.5													40
Total Acres (for irrigation use)																			148

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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:
Ground water well is located next to pump station from Willow Creek. Ground water is delivered through same common mainline with Willow Creek water, but to different pivots. Well is equipped with a flow meter and is regulated by Water District 120.

- b. Who owns the property at the point(s) of diversion? Bart and Danielle Weeks
 If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
N/A. No change in point of diversion.

- 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 Water rights are not being moved off of property.

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:
Water right 25-7563 is limited to 148 irrigated acres. No more than 148 acres will be irrigated.

- 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:
During the time water right 25-7563 has been held unused. Pivots have been irrigated with shares from Farmers Friend Irrigation Company.

- 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:

From 2017 to today, ground water right has been held unused to satisfy the reduction requirements under the 2015 IGWA/SWC settlement agreement.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

Water Right 25-7563

Owner Type **Name and Address**
Current Owner CRAIG A BURTENSHAW
 PO BOX 35
 RIGBY, ID 83442

Current Owner KARMA S BURTENSHAW
 PO BOX 35
 RIGBY, ID 83442

Priority Date: 1/18/1990

Basis: License

Status: Active

Source
GROUND WATER

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	2.960 CFS	592.0 AF
	<u>Total Diversion</u>		2.960 CFS	592.0 AF

Source and Point(s) of Diversion:

GROUND WATER SWSW

Sec. 12, Twp 03N, Rge 39E, BONNEVILLE County

Place of Use:

IRRIGATION within BONNEVILLE 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	
03N	39E	13		8.0	38.0	2.0			40.0	20.0									108.0
03N	39E	14				40.0													40.0

POU Total Acres: 148.0

Conditions of Approval:

1. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. R31 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
3. 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

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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 (WaterBalance)

- ☐ If you propose to change the nature of use or period of use of all or part of the rights(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:

N/A

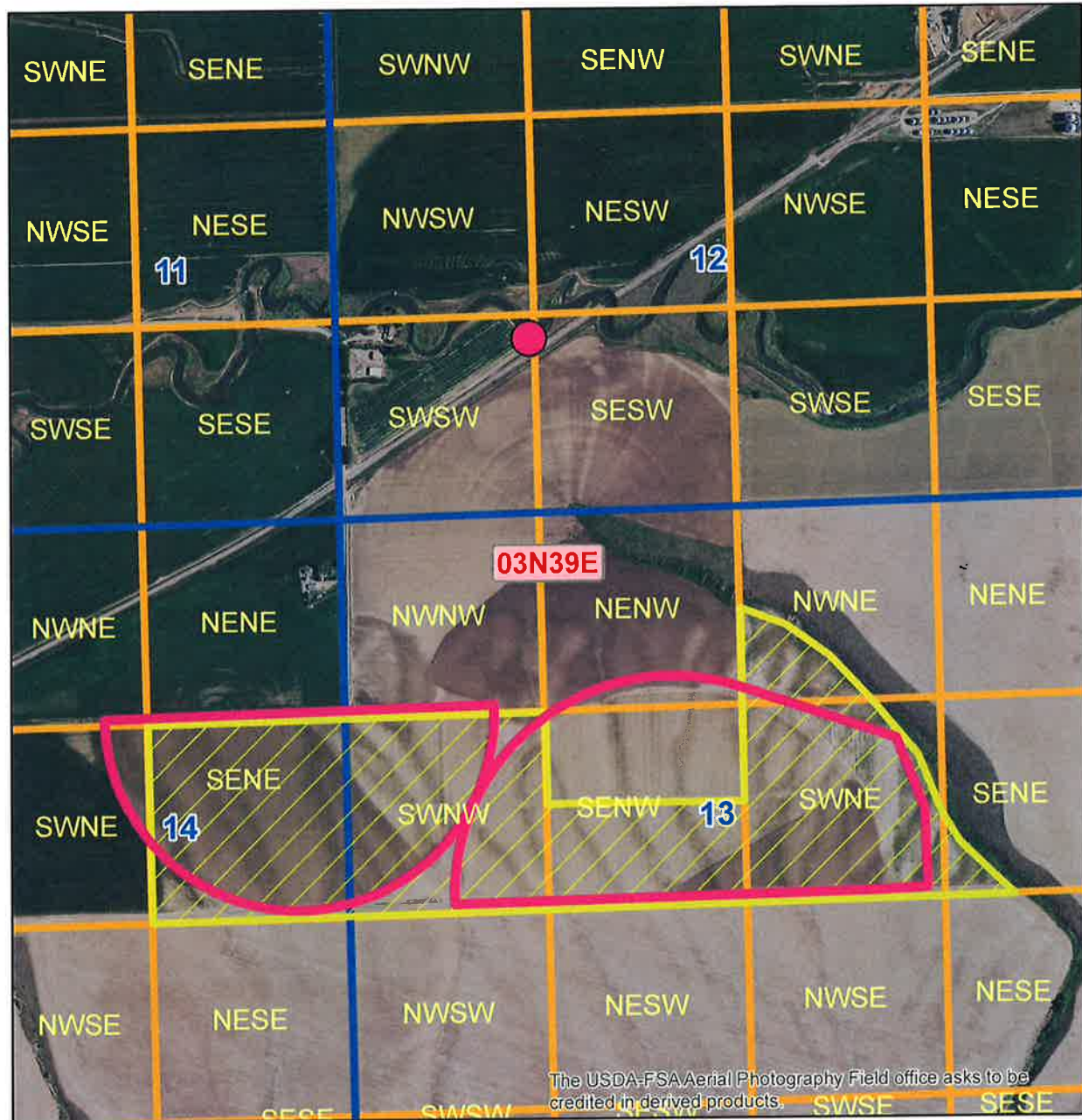
FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.

Received by _____	Date _____	Preliminary check by _____	Date _____
Fee paid <u>1330.00</u> ^(500.00)	Date <u>4-9-24</u>	Received by <u>M. Petter</u>	Receipt # <u>E049946</u>
Add'l fee paid <u>\$25</u>	Date <u>4/4/24</u>	Received by <u>JB</u>	Receipt # <u>E049934</u>

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

Application for Transfer - Shaw Capital Inc.



The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

- Shaw_Capital_POU
- Water Right POU
- Township/Range
- Sections
- QQ

0 750 1,500 3,000 Feet





0005135878

**STATE OF IDAHO***Office of the secretary of state, Phil McGrane***ANNUAL REPORT**

Idaho Secretary of State

PO Box 83720

Boise, ID 83720-0080

(208) 334-2301

Filing Fee: \$0.00

*For Office Use Only***-FILED-**

File #: 0005135878

Date Filed: 3/3/2023 4:07:24 PM

Entity Name and Mailing Address:

Entity Name: SHAW CAPITAL INC
The file number of this entity on the records of the Idaho Secretary of State is: 0003844513
Address: 4971 EAGLEWOOD DR
IDAHO FALLS, ID 83401-6171

Entity Details:

Entity Status: Active-Good Standing
This entity is organized under the laws of: IDAHO
If applicable, the old file number of this entity on the records of the Idaho Secretary of State was:

The registered agent on record is:

Registered Agent: JAKE BURTENSHAW
Registered Agent
Physical Address
4971 EAGLEWOOD DR
IDAHO FALLS, ID 83401
Mailing Address
2184 CHANNING WAY # 439
JAKE BURTENSHAW
IDAHO FALLS, ID 83404-8034

Corporate Officers and Directors:

Name	Title	Business Address
JAKE BURTENSHAW	President	4971 EAGLEWOOD DRIVE IDAHO FALLS, ID 83401

The annual report must be signed by an authorized signer of the entity.

Job Title: PRESIDENT

JAKE BURTENSHAW

Sign Here

03/03/2023

Date

DUPLICATE OF ORIGINAL FILED IN OFFICE OF THE CLERK OF THE DISTRICT COURT OF IDAHO

MEMORANDUM

Date: May 8, 2024

To: Transfer 88946

From: James Cefalo

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.