

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83869**

This is to certify that: THE R & L UDY FAMILY REVOCABLE LIVING TRUST
5111 ROCKLAND HWY
ROCKLAND, ID 83271-6122

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
41-7016	WR/DECREED	6/20/1975	0.260 cfs	110.0 af	N/A	37.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
41-7016	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
41-7016	41-7016	0.260 cfs	110.0 af	N/A	37.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.260 cfs	110.0 af	N/A	37.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 12th day of February, 2020.



Southern Region Manager

WATER RIGHT NO. 41-7016
As Modified by Transfer No. 83869

In accordance with the approval of Transfer No. 83869, Water Right No. 41-7016 is now described as follows:

Right Holder: THE R & L UDY FAMILY REVOCABLE LIVING TRUST
5111 ROCKLAND HWY
ROCKLAND, ID 83271-6122

Priority Date: 6/20/1975

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	3/15	to 11/15	0.260 cfs	110.0 af
			0.260 cfs	110.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NENW Sec 22 Twp 11S Rge 31E POWER County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	31E	22					35.0			2.0									37.0

POU Total Acres: 37.0

CONDITIONS OF APPROVAL






1. This right is limited to the irrigation of 37.0 acres within the authorized place of use in a single irrigation season.
2. Rights 41-12, 41-2019, 41-2026, 41-7016, 41-7028 and 41-10253 when combined shall not exceed the irrigation of 270 acres.
3. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
6. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 83869

State of Idaho
Department of Water Resources
Attachment to Transfer # 83869
41-7016

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.05 0.1 0.2 Miles



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 83869**RECEIVED****FEB 11 2020**

MINIMUM REQUIREMENTS CHECKLIST
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 <http://www.idwr.idaho.gov/>.

Name of Applicant(s) THE R & L UDY FAMILY REVOCABLE LIVING TRUST

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 #1-9.

- ☐ ☒ #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 transfer 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).
- ☐ ☒ #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 <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☐ ☒ #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.
- ☐ ☒ #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.)
- ☐ ☒ #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 Other. Please describe: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED
FEB 11 2020
DEPT OF WATER RESOURCES
SOUTHERN REGION

Name of Applicant THE R & L UDY FAMILY REVOCABLE LIVING TRUST Phone (208) 548-2636
Mailing Address 5111 ROCKLAND HWY, ROCKLAND ID 83271-6122 Email _____

- ☐ 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**.

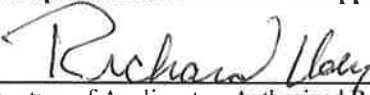

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☒ 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.

<u></u>	<u>RICHARD UDY, TRUSTEE</u>	<u>Feb 17, 2020</u>
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date
<u></u>	<u>LINDA UDY, TRUSTEE</u>	<u>Feb 7, 2020</u>
Signature of Applicant or Authorized Representative	Print Name and Title if applicable	Date

A. PURPOSE OF TRANSFER

1.	Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
	41-7016	No	Yes	No	No	No	No

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.2**

Application seeks to update the location of the well and legal description to more accurately describe the historical well location. Administrative change only, no change to place of use and no actual physical change.

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 TO A SEPARATE SYSTEM, DESCRIBE PORTIONS TO BE CHANGED TO A SEPARATE SYSTEM AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.**

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
41-7016	0.260 cfs	110.0 af	N/A	37.0		N/A	N/A	N/A	N/A
COMBINED									
TOTALS	0.260 cfs	110.0 af	N/A	37.0		N/A	N/A	N/A	N/A

2. Total amount of water proposed to be transferred or changed 0.26 cubic feet per second and/or _____ acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5.**

4. Place of Use:

- ☒ No changes to place of use are proposed. (Proceed to #5.)
- ☐ As shown in Part 1.
- ☐ See Attachment.

**ILLINOIS DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes**

Proposed Water Right No. 41-7016

Current Water Right Owner

THE R & L UDY FAMILY
REVOCABLE LIVING
TRUST
5111 ROCKLAND HWY
ROCKLAND, ID
83271-6122

Priority Date: 6/20/1975

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/15	11/15	0.260 CFS	110.0 AFA	
Total Diversion			0.260 CFS	110.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

NENW

Sec. 22 Twp 11S Rge 31E POWER County

Describe the proposed diversion system

WELL AND PUMP

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	31E	22					35.0			2.0									37.0

POU Total Acres: 37.0

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 with 7 1/2 Submersible Pump with Water Meter

- b. Who owns the property at the point(s) of diversion

Applicant

The R & S Elder Revocable Living Trust

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?
No, ☒ 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. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

None

- e. Describe the use of any other water right(s) for the same purpose or land, or 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

- f. 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 RESOURCE
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 41-7016

Current Water Right Owner

THE R & L UDY FAMILY
REVOCABLE LIVING
TRUST
5111 ROCKLAND HWY
ROCKLAND, ID
83271-6122

Priority Date: 6/20/1975

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION	3/15	11/15	0.260 CFS	110.0 AFA	
Total Diversion			0.260 CFS	110.0 AFA	

Source and Point(s) of Diversion:

GROUND WATER

NWNENW

Sec. 22 Twp 11S Rge 31E POWER County

Describe the proposed diversion system

WELL AND PUMP

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	31E	22					35.0			2.0									37.0

POU Total Acres: 37.0

Conditions/Remarks:

1. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 270 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 41-00012, 41-02019, 41-02026, 41-07016 & 41-07028, 41-10253.
2. 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.
3. RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

☒ **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 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**.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation.
Label it **Attachment #8b**

1. 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.:

Transfer Contains 7 pages and attachments.
 Received By S. GEORGE Date 2/11/2020 Prelim. Check By Date
 Fee Paid \$50.00 Date 2/11/2020 Received By S. GEORGE Receipt # 5037758
 Add'l Fee Paid Date Received By Receipt #

Attachment 7A



TRANSFER 83869



State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: www.idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

March 4, 2020

THE R & L UDY FAMILY REVOCABLE LIVING TRUST
5111 ROCKLAND HWY
ROCKLAND ID 83271-6122

Re: Transfer No: 83869
Water Right No(s): 41-7016

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

c:

RICHARD UDY (Trustee)
LINDA UDY (Trustee)
5111 ROCKLAND HWY
ROCKLAND ID 83271-6122

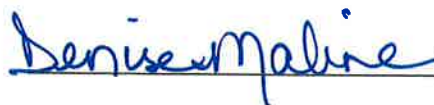
CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2020 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 83869
Water Right No(s): 41-7016

THE R & L UDY FAMILY REVOCABLE LIVING TRUST
5111 ROCKLAND HWY
ROCKLAND ID 83271-6122

RICHARD UDY (Trustee)
LINDA UDY (Trustee)
5111 ROCKLAND HWY
ROCKLAND ID 83271-6122



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: February 12, 2020
To: Transfer 83869
From: Bill Mills
Re: Legal Notice Not Required

Since the application only seeks to correct the location where the water right has always been diverted and used, and there is no actual hydrologic change, the transfer was processed, and can be approved without advertising.

Legal Notice Not Required
2/12/2020

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.

MEMORANDUM

Date: February 12, 2020
To: Transfer 83869 File
From: William Mills
Re: Evaluation of Sufficiency of Information Submitted

Application proposes updating the legal description for the point of diversion (POD) for an irrigation ground water right, 41-7016 (0.26 cfs; 110.0 af; 37 acres) There is no change to the physical location of the POD or the place of use (POU). The current legal description describes the POD as located in the NWNENW1/4 of Sec 22, Twp 11S, Rge 31E. The corrected POD appears to be located in the SENENW1/4 of Sec 22, Twp 11S, Rge 31E. The 10 acre tract descriptor will be dropped and the POD location will be described as located in the NENW1/4 of Sec 22, Twp 11S, Rge 31E. The POD location is approximately 22.3 miles south and 2.6 miles east of the American Falls Dam.

Overlap review indicates this 37 acre ground water right overlaps with the following five irrigation rights that are limited to the total combined irrigation of 270 acres: 41-12; 41-2019; 41-2026; 41-7028 and 41-10253.

Since the application only seeks to correct the location where the water right has always been diverted and used, and there is no actual hydrologic change, the transfer was processed, and can be approved without advertising.

- **Authority to File:**
IDWR records indicate the applicant currently owns the water right and properties the right is appurtenant to.
- **Water Right Validity:**
This water right was decreed in the SRBA on 1/15/2002. Recent aerial and satellite imagery indicates the properties the water right is appurtenant to appears to be irrigated.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.

- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed uses are recognized as beneficial uses of water.
- **Effect on the Economy of the Local Area:**
None Anticipated.
- **Effect on Agricultural Base of the Local Economy:**
None Anticipated.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

MEMORANDUM

Date: February 12, 2020
To: Transfer 83869 File
From: Bill Mills
Re: Fee Evaluation

Filing fees charged for transfer application #83869 were based on Idaho Code § 42-221(8) which allows a \$50.00 filing fee per water right for transfer applications that only seek to change the legal description with no actual physical change to the place of use or point of diversion. Filing fee of \$50.00 and paid on 2/11/2020 (Receipt No.S037758).



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 30, 2020

The R & L Udy Family Revocable Living Trust
5111 Rockland Hwy
Rockland, ID 83271-6122

Dear Wateruser:

While reviewing water right records in your area an inconsistency between the described elements of the referenced water right and physical location was identified.

Water right 41-7016 lists the location of the point of diversion within the NWNENW¼ of Section 22, Township 11 South, Range 31 East, B.M. Using GIS review it appears the description is incorrect and should be described as in the NENW¼ of Section 22, Township 11 South, Range 31 East, B.M.

On Tuesday 1/28/2020, a Department representative, Nathan Erickson, stopped by and evaluated the well location and spoke with Mr. Udy about filing an application to correct the legal description of the well to match its historical location Mr. Udy indicated he was willing to file the transfer to correct the description of the well location.

Please have the Trustees sign the enclosed transfer application on page 2, and mail back the application to the Department along with a \$50.00 processing fee within 30 days of receiving this letter.

Your cooperation in this matter is greatly appreciated. If you have questions please feel free to contact this office at 208-736-3033.

Respectfully,

Bill Mills,
Water Resource Agent
Sr. Southern Regional Office