

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 17 2018
Department of Water Resources
Eastern Region

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) Race + Mistri Russell Phone 208-569-4369
Mailing address 4111 E 140 N Rigby ID 83442 Email mistrussell@gmail.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.

Race Russell
Signature of Applicant or Authorized Representative

Race Russell
Print Name and Title if applicable

4/16/18
Date

Mistri Russell
Signature of Applicant or Authorized Representative

Mistri Russell
Print Name and Title if applicable

4/16/18
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 ownership change
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**.

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 ☐ ☒ 27-12156 0.10 Irrigation 03/15 to 11/15 Ground Water					
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.10 cfs and/or _____ acre-feet.

2. Total amount of water proposed to be transferred or changed _____ 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 #
			SE	SE	9	01S	37E	Bingham	Ground Water	

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	
01S	37E	9																5	5
Total Acres (for irrigation use)																			5

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:

Pump to Sprinkler

- 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:

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/22/2019

Water Right 27-12156

Owner Type **Name and Address**
Current Owner BYARD COX
3775 N YELLOWSTONE HWY
IDAHO FALLS, ID 83401
(208) 529-6679

Priority Date: 9/11/1974

Basis: Decreed

Status: Active

Source **Tributary**
GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.240 CFS	42.0 AF
	<u>Total Diversion</u>		0.240 CFS	42.0 AF

Source and Point(s) of Diversion

GROUND WATER SWSENE Sec. 9, Twp 01S, Rge 37E, BINGHAM County

Place Of Use

IRRIGATION within BINGHAM 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	
01S	37E	9																12.0	12.0

POU Total Acres: 12.0

Conditions of Approval:

1. R25 This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.
2. 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 and Other Information

Decreed Date: 8/28/2007

Water District Number: 120

Generic Max Rate Per Acre: 0.020

Generic Max Volume Per Acre: 4.0

Mitigation Plan: False

Combined Use Limits

N/A

Water Supply Bank:

N/A

83555

Russell Point of Diversion Transfer

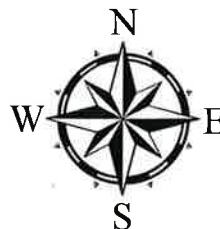


The USDA-FSA Aerial Photography Field office asks to be credited in derived products.

2015 Imagery

Legend

- Pre-Transfer Point of Diversion
- Post-Transfer Point of Diversion
- Pre-Transfer Place of Use
- Portion_for_Split
- Township/Range
- Sections
- QQ



83555
88055

0.075

0.15

0.3

Miles

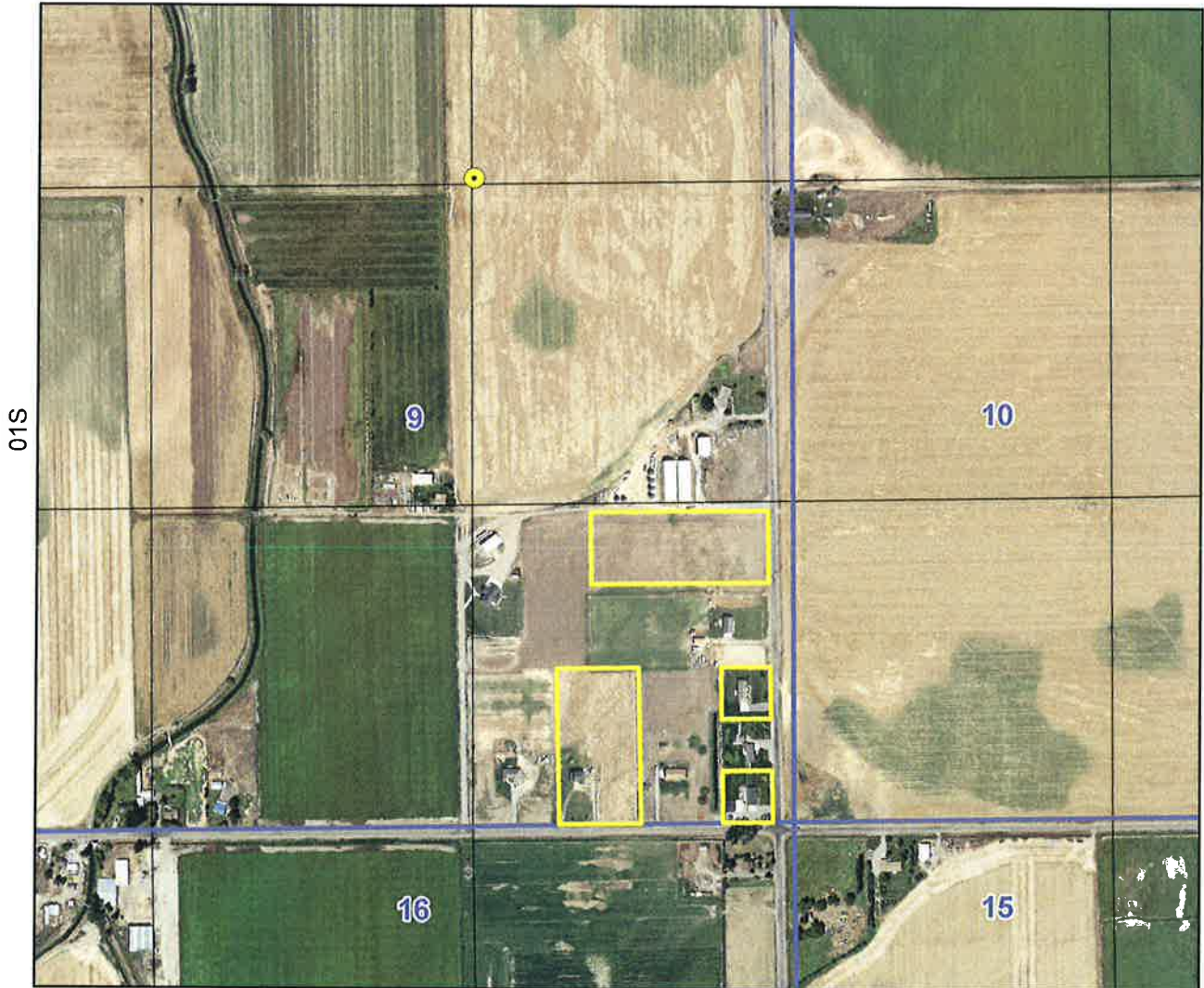
State of Idaho
Department of Water Resources

Water Right 27-12156

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.

37E



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

0 0.075 0.15 0.3 Miles

83555



Idaho Dept of Water Resources,

We bought our lot from a family that owned three lots and have since sold them to three different people. The lot was used as pasture. We need a point of diversion because we don't have legal access to the existing well; as the properties are not connected.

Race & Mistri Russell

Lot 1 in Block 1 of Cox Mountain View Estates

557333 WARRANTY DEED

3020SD7441-2

BYARD A. COX and SHIRLEY A. COX, husband and wife, as GRANTOR,
 for good and valuable considerations, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto
ROSS SHURTZ and BETTY JEAN SHURTZ, husband and wife, as GRANTEE,
 whose address is _____, and Grantee's successors and assigns, all of the following described real property, to-wit:

Lot ¹/₂ in Block 1 of Cox Mountainview Estates, Division No. 1, Bingham County, Idaho, according to the recorded plat thereof.

SUBJECT TO the 2005 and subsequent years general taxes and assessments, all existing patent reservations, easements, right of ways, protective and restrictive covenants, zoning ordinances and applicable building codes, laws and regulations.

TOGETHER WITH any and all improvements, water and ditch rights, easements, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversion, remainder, rents, issues, and profits thereof.

Grantor, for himself and his successors and assigns, does hereby warrant and agree to forever defend the Grantee, and Grantee's successors and assigns, in the quiet and peaceful possession of said premises against the lawful claims of any and all persons.

In construing this Deed and where the context so requires, the singular includes the plural, and the masculine, the feminine and neuter.

Dated: August 22, 2005


 Byard A. Cox

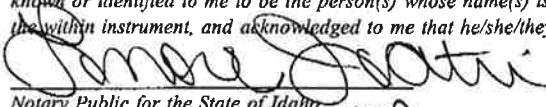

 Shirley A. Cox

STATE OF IDAHO)

COUNTY OF Bonneville) ss

On August 22, 2005, before me, the undersigned, personally appeared
 Byard A. Cox and Shirley A. Cox

known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.


 Notary Public for the State of Idaho

Commission Expiration Date: 1/30/09



557333

RECORDED AT THE REQUEST OF

2005 AUG 24 PM 4: 33

BINGHAM COUNTY, IDAHO
 FEE 12 DEP 12

AmeriTitle

Instrument # 673505

BINGHAM COUNTY, IDAHO
2016-01-19 08:18:34 AM No. of Pages: 2
Recorded for: FIRST AMERICAN TITLE - BURLEY
PAMELA W. ECKHARDT Fee: \$13.00
Ex-Officio Recorder Deputy JPulley
Index To: QUIT CLAIM DEED
Electronically Recorded by Simplifile

AFTER RECORDING MAIL TO:

Rhen Shurtz
965 N 500 E
Rupert, Idaho 83350

This instrument is recorded by First
American Title Co. as an accommodation
only and has not been examined as
to its execution & effect upon the title

QUITCLAIM DEED

For Value Received, **Ross Shurtz and Betty J Shurtz, husband and wife**, do(es) hereby convey, release, remise, and forever quit claim unto **Rhen Shurtz, a married man dealing with his sole and separate property**, whose address is **965 N 500 E, Rupert, Idaho 83350**, herein after called the Grantee, the following described premises situated in **Bingham County, Idaho**, to-wit: **Legal Description attached hereto as Exhibit A, and by this referenced incorporated herein.**

together with its appurtenances.

Dated: 01-13-2015

Ross Shurtz
Ross Shurtz

Betty J Shurtz
Betty J Shurtz

STATE OF Idaho)
COUNTY OF Minidoka)
SS.

On this 13th day of January 2015, before me, a Notary Public in and for said State, personally appeared **Ross Shurtz and Betty J Shurtz**, known or identified to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.



Jennifer Cutler
Notary Public of Rupert, and Minidoka
Residing at: _____
Commission Expires: Resides: Rupert, ID
Notary Expires: 02.27.2018

Quitclaim Deed - continued

EXHIBIT A

**Lot 1 in Block 1 of Cox Mountainview Estates, Division No. 1, Bingham County, Idaho,
according to the recorded plat thereof.**



Instrument # 690608
BINGHAM COUNTY, IDAHO
2017-09-26 03:41:31 PM No. of Pages: 1
Recorded for AMERITITLE - IDAHO FALLS
PAROLA W. ECKHARDT Fee \$15.00
Ex-Officio Recorder Deputy DWootton
Index to WARRANTY DEED
Electronically Recorded by Simplifile

WARRANTY DEED

Order No.: 193660AM

FOR VALUE RECEIVED

Rhen Shurtz and Jamie Shurtz, husband wife

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Race Russell and Mistri Russell, husband and wife

whose current address is:

~~XXXXXXXXXX~~
~~XXXXXXXXXX~~

4111 E 140 N
Rigby, ID 83442

the grantee(s), the following described premises, in Bingham County, Idaho, TO WIT:

Lot 1, Block 1 of Cox Mountainview Estates, Division No. 1, according to the official plat thereof, filed in Official Records of Bingham County, Idaho

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record. And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: September 21, 2017

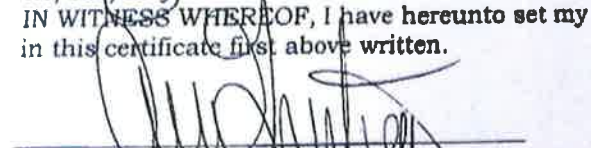

Rhen Shurtz

Jamie Shurtz

State of Idaho } ss
County of Bonneville)

On this 22 day of September, 2017, before me, the undersigned a Notary Public in and for said state, personally appeared **Rhen Shurtz and Jamie Shurtz**, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for the State of Idaho
Residing at:
Commission Expires: residing in Bonneville County
Commission Expires: 08-26-2022



83555

September 19, 2019

MAY CONTAIN MORE THAN 1 PAGE

Legal Notice Department

Morning News
PO Box 70
Blackfoot ID 83221

RE: Legal Ads

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before **October 15, 2019**. Your cooperation is appreciated.

Sincerely,

Christina Henman
Administrative Assistant
Department of Water Resources
900 N Skyline Dr Ste A
Idaho Falls ID 83402
208-497-3793
208-525-7177 – fax

PLEASE PUT IN NORMAL COLUMN AND NO BORDERS. THANK YOU.

.....
NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 83502

J & L HOLDINGS LLC, PO BOX 111, IRWIN, ID 83428; has filed Application No. 83502 for changes to the following water rights within BINGHAM County(s): Right No(s). 35-2568. The purpose of the transfer is to change a portion of the above rights as follows: change place of use and change point of diversion. The place of use will be in SESE Sec 34 T4N R38E for 2.5 acres. The point of diversion will be in SESE Sec 34 T4N R38E for 0.03 cfs from ground water.

TRANSFER NO. 83555

RACE RUSSELL and MISTRI RUSSELL, 4111 E 140 N, RIGBY, ID 83442; has filed Application No. 83555 for changes to the following water rights within BINGHAM County(s): Right No(s). 27-12156. The purpose of the transfer is to change a portion of the above rights as follows: Change point of diversion. The point of diversion will be in SESE Sec 9 T1S R37E for 0.10 cfs from ground water. The place of use remains the same.

For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. To see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N SKYLINE DR STE A, IDAHO FALLS ID 83402-1718 together with a protest fee of \$25.00 for each application on or before 10/15/2019. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director Published on 9/25/2019 and 10/2/2019



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177

Website: idwr.idaho.gov • Email: easterninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

September 18, 2019

RACE RUSSELL
4111 E 140 N
RIGBY, ID 83442

MISTRI RUSSELL
4111 E 140 N
RIGBY, ID 83442

RE: Transfer No. 83555
Water Right No(s). 27-12156

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **MORNING NEWS** on 9/26/2019 and 10/3/2019. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Christina Henman
Administrative Assistant