

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 81481**

This is to certify that: EVERETT P DELAY AND
HOLLY DELAY
1359 W APPLECREEK CT
EAGLE, ID 83616

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>
63-34402	WR/DECREED	9/29/1978	0.060 cfs	15.7 af	N/A	3.5	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>
63-34402	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>
63-34402	63-34402	0.060 cfs	15.7 af	N/A	3.5	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.060 cfs	15.7 af	N/A	3.5		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 24th day of October, 2017.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34402
As Modified by Transfer No. 81481

In accordance with the approval of Transfer No. 81481, Water Right No. 63-34402 is now described as follows:

Right Holder: EVERETT P DELAY AND
HOLLY DELAY
1359 W APPLECREEK CT
EAGLE, ID 83616

Priority Date: 9/29/1978

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.060 cfs	15.7 af
			0.060 cfs	15.7 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NWNW Sec 32 Twp 05N Rge 01E ADA 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	
05N	01E	32						3.5											3.5

POU Total Acres: 3.5

CONDITIONS OF APPROVAL

1. This right when combined with all other rights shall provide no more than 0.03 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the place of use.
2. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than 11/26/2002.
3. 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 determine the amount of water diverted from power records and shall annually report the information to the Department.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. Point of diversion is located within Lot 8, Blk. 1, Applecreek Subdivision.
6. Place of use is located within Lot 8, Blk. 1, Applecreek Subdivision.

Transfer No. 81481

WATER RIGHT NO. 63-34402

As Modified by Transfer No. 81481

CONDITIONS OF APPROVAL

7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 81481

Water Right: 63-34402

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.



-  Transfer POD
-  Transfer POU
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.025 0.05 0.1 Miles



RECEIVED

FEB 17 2017

Rev. 07/13

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 81481**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 www.idwr.idaho.gov.

Name of Applicant(s) EVERETT AND HOLLY DELAYCheck 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 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 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.) 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 Other. Please describe: Water right contract and master plan

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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WATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant(s) EPD 2-17-17 BV 2/17/17 EVERETT AND HOLLY DELAY Phone 208-939-6608
Mailing address 1359 W. Applecreek Ct., Eagle, ID 83616 Email epdelay@yahoo.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 TICKOR JOHNSON Phone 866-1355
Mailing address 312 S. Eagle Rd Ste 328 Eagle ID 83616 Email tjeskylineid.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.

EPD
Signature of Applicant or Authorized Representative

Everett P Delay
Print Name and Title if applicable

02-17-2017 EPD
04/04/2015
Date 2/17/2017 BV

Holly Delay
Signature of Applicant or Authorized Representative

Holly Delay
Print Name and Title if applicable

4/13/2015
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 split water right
- 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.

Split the water right and add a separate private well to applicant's portion aka Lot 8, Block 1, Applecreek Subdivision.

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.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☐ ☒	63-31495	*0.056875 cfs	Irrigation	3/15 to 11/15	Ground Water
☐ ☐		*15.75 ac-ft		to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.65 cfs and/or 180.0 acre-feet. *per water right contract (Attachment 9)

2. Total amount of water proposed to be transferred or changed 0.05687 cubic feet per second and/or 15.75 acre-feet per annum.

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 #
no			NW	NW	32	5N	1E	Ada	Ground Water	D0031098

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	
5N	1E	32						5.107											5.107
Total Acres (for irrigation use)																			*5.107

*3.5 acres within a 5.107-acre permissible place of use

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, pump, pressurized irrigation system.

Measuring device and controlling works will be accommodated upon Department request.

- 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. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Applicant purchased Lot 8, Block 1, Applecreek Subdivision, which is within the water right's 60-acre ppu. A water right contract and master plan, included as Attachment 9, describes the portion of the 40 authorized acres agreed to be appurtenant to applicant's property at time of purchase.

- e. 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

- 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:

WARRANTY DEED

ADA COUNTY RECORDER J. DAVID NAVARRO
BOISE IDAHO 10/20/03 04:44 PM
DEPUTY Bonnie Oberbillig
RECORDED - REQUEST OF
Title One
AMOUNT 3.00

1



103179000

FOR VALUE RECEIVED

Tandem Enterprises, LLP, the Grantor, does hereby grant, bargain, sell and convey unto **Timothy P. and Frances G. Williams**, husband and wife, the Grantees, whose current address is:

5125 N. Riverfront Dr
Garden City, Idaho 83714

The following described real property, more particularly described as follows, to wit

Lot 8 of Block 1 of Applecreek Subdivision, According to the official plat filed with the Ada County Recorder's Office, Boise, Idaho, Instrument No. 103145550, Book 86, Pages 9791 through 9792, dated August 27, 2003.

Subject to the following:

The Covenants, Conditions, Restrictions and Easements for Applecreek Subdivision as recorded with the Ada County Recorder's Office, Boise, Idaho, Instrument No. 103163604.

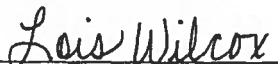
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and their heirs and assigns forever. And the said Grantors does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances, and that they will warrant and defend the same from all lawful claims whatsoever.

October 6, 2003
Date

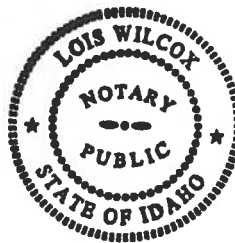

Tandem Enterprises, LLP
Tucker M. Johnson, Managing Partner

STATE OF IDAHO)
COUNTY OF ADA)

On the 16th day October, 2003 before me, a Notary Public in and for said State, personally appeared Tucker M. Johnson, known to me to be the Managing Partner of the Tandem Enterprises, LLP. Grantor herein and acknowledged before me that he had executed the within instrument in said capacity.


Notary Public for Idaho
Residing at:
Expires:

Middleton, Idaho
3-31-2004



AFTER RECORDING MAIL TO:

Everett P. Delay and Holly Delay
1359 West Applecreek Court
Eagle, ID 83616

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

WARRANTY DEED

File No.: **4106-2368669 (WS)**

Date: **February 12, 2015**

For Value Received, **Timothy P. Williams and Frances G. Williams, husband and wife**, hereinafter referred to as Grantor, does hereby grant, bargain, sell and convey unto **Everett P. Delay and Holly Delay, husband and wife**, hereinafter referred to as Grantee, whose current address is **1359 West Applecreek Court, Eagle, ID 83616**, the following described premises, situated in **Ada County, Idaho**, to wit:

LEGAL DESCRIPTION: Real property in the County of Ada, State of Idaho, described as follows:

Lot 8 in Block 1 of APPLECREEK SUBDIVISION, according to the plat thereof, filed in Book 86 of Plats at Pages 9791 and 9792, Records of Ada County, Idaho.

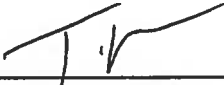
APN: **R0486080080**

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

APN: R0486080080

Warranty Deed
- continued

File No.: 4106-2368669 (WS)
Date: 02/12/2015



Timothy P. Williams

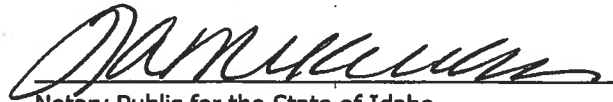
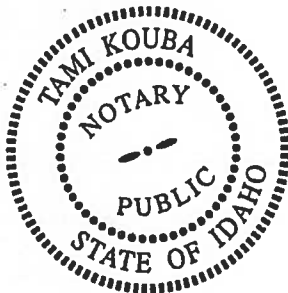


Frances G. Williams

STATE OF Idaho)
) ss.
COUNTY OF Ada)

On this 12th day of **February, 2015**, before me, a Notary Public in and for said State, personally appeared **Timothy P. Williams and Frances G. Williams**, 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.

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: Meridian, ID
My Commission Expires: 05/15/2018

BILL OF SALE

Irrigation Water Right

March 12, 2015

For value received, we the undersigned to hereby bargain, sell, and convey 3.50 acres of irrigation water right 63-31495 to EVERETT AND HOLLY DELAY which water right is being used and is to be used at 1359 Applecreek Ct., Eagle, Idaho 83616.

Sellers



Tucker M. Johnson



Denise R. Johnson

Exhibit A

APPLECREEK SUBDIVISION
RESERVATION/PURCHASE AGREEMENT
(Buyer's Option)

THIS AGREEMENT, made and entered into this 15TH day of MARCH, 2003, by and between TANDEM ENTERPRISES, L.L.P. as Seller and LAVAR W. AND KIMBERLY A. KOFOED as Buyer, wherein Buyer does hereby purchase from Seller the optional right to purchase the following described property located in Ada County, State of Idaho, to LOT 6 BLOCK 1 of APPLECREEK SUBDIVISION as shown on attached preliminary plat (lot numbers subject to change), including 3.5 acres of ground water rights.

TERMS: Seller does hereby agree to sell said property to Buyer for the sum of \$2,000.00 dollars, lawful money of the United States, provided said amount is fully paid to Seller on or before 5 o'clock p.m., November 1, 2003 (Expiration of Buyer's Option). As consideration for this continuing offer to sell said property, Buyer agrees to pay to the Seller the sum of two thousand (\$2,000.00) non-refundable reservation/option money which shall be credited toward Buyer's closing cost. In the event the full purchase price is not fully paid on or before said expiration date, Seller shall retain said option purchase money payments and any interest payments (as outlined hereafter) and may convey said property to others without regard to this agreement or payments made hereunder and Buyer shall have no claim to said property, option purchase money payments, or interest payments. Seller may grant, at Seller's sole discretion, a written extension of this Purchase Agreement to the Buyer providing that Buyer presents evidence satisfactory to the Seller of progress toward closing the purchase. Seller may require Buyer to deposit additional option purchase money as consideration for granting an extension and/or pay interest in advance and/or at closing at the rate of one percent (1%) per month on the unpaid balance for the extension period, which interest shall not apply to the purchase price.

The following additional terms and conditions shall apply:

- 1) Lot to be closed prior to commencing construction thereon. If Buyer commences construction prior to closing, Buyer does hereby indemnify Seller from any and all claims of injury related to Buyer's construction activities.
- 2) Buyer acknowledges receipt of a draft-summary copy of the Covenants, Conditions, and Restrictions (CC&R's) for said subdivision and understands that the official full recorded version of the CC&R's will be binding upon Buyer upon closing. Prior to closing, Seller shall present to Buyer the recorded copy of the CC&R's, which shall closely follow the draft-summary.
- 3) Buyer agrees to submit plans and specifications to the Architectural Control Committee of the subdivision and receive written plan approval prior to start of construction.
- 4) Buyer shall contact Lois Wilcox at 377-4104 for closing document.
- 5) Builder shall verify boundary and measurements before starting construction. Seller will not be responsible for damages resulting from Buyer's failure to do so.
- 6) Buyer shall pay all utility hook-up fees.
- 7) Buyer shall be responsible for coordinating the location of his well and septic drain field with the Central District Health Department and Buyer's well driller.
- 8) Damage to streets, curbs, borrow ditches, piping, fences, utility facilities or other improvements shall be the responsibility of the Buyer if occurring after the date of possession or date of conveyance or buyer's start of construction, whichever date shall first occur.
- 9) Buyer to ensure that all construction activity on said lot complies with all EPA standards (e.g., no mud on roadway, dust, etc.) and in addition, Buyer to keep job site in a clean and orderly manner and contain all construction debris on the job site.
- 10) It is understood and agreed that Seller will not be required to furnish Title Insurance to Buyer but Seller warrants merchantable title, subject to easements, restrictions, and covenants of record and as shown on the official plat of the subdivision. Should Buyer desire Title Insurance, Buyer is to obtain such from a local Title Company at Buyer's expense.
- 11) Tax assessments shall be pro-rated as of possession date.
- 12) Any HOA assessment (not to exceed \$100) shall be collected at closing and shall not be prorated.
- 13) If legal action is to be instituted to enforce this agreement, the prevailing party shall be entitled to reasonable attorney fees.
- 14) This agreement shall be binding on the executors, heirs, administrators, personal representatives, successors, and assigns of the respective parties hereto, time being of the essence. There are no verbal agreements modifying this agreement.
- 15) This option is not transferable without the prior written consent of the Seller.
- 16) An additional \$1,500.00 pathway fee will be added to the final closing price if the majority of Buyers desire the Seller to install a pathway system.

Seller: TANDEM ENTERPRISES, L.L.P.

By: [Signature]

Buyer:

By: [Signature]
Lavar Kofoed

A. DESCRIPTION OF RIGHT(S) AS RECORDED

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- Right Number: 63-31495

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per $\frac{1}{4}$ $\frac{1}{4}$ tract.)

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ATTACHMENT 2A
OWNERSHIP DOCUMENTATION

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 63-31495

Current Owner: TUCKER M JOHNSON
DENISE R JOHNSON

Priority Date: 9/29/1978

Origin: Water Right

Status: Active

Basis: Decreed

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.59 CFS	164.2 AF
	<u>Total Diversion</u>	0.59 CFS	164.2 AF

Location of Point(s) of Diversion

GROUND WATER
ADA County

NE1/4NW1/4 Sec. 32, Twp 05N, Rge 01E B.M.

Place of Use

IRRIGATION Within ADA County

T05N R01E S32	NENW	14.80	T05N R01E S32	NWNW	40.00
Total Acres: 54.8					

Transfer 8/481

Conditions of Approval:

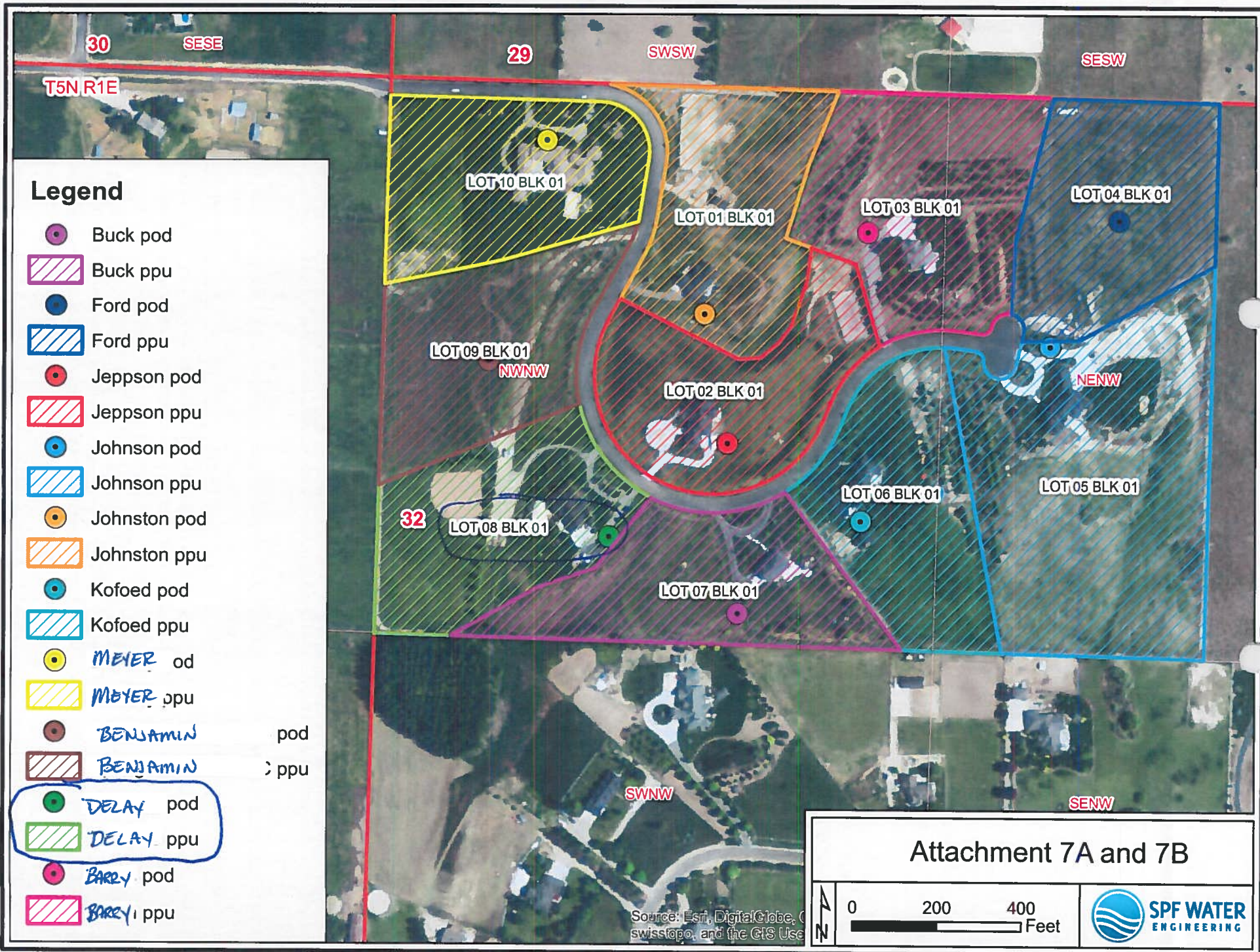
1. 11E The Director retains jurisdiction of this right to require streamflow augmentation or other action determined to be appropriate to protect prior surface water or ground water rights. Such stream flow augmentation or other action will be required only upon a determination of need and applicability by the Director.
2. R65 This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
3. 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 determine the amount of water diverted from power records and shall annually report the information to the Department.
4. X27 This right is limited to the irrigation of 36.5 acres within the place of use described above in a single irrigation season.
5. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.
6. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
7. X61 The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 11/26/2002.

Decreed Date: 1/14/2009

Transfer 81481

ATTACHMENT 9
CONTRACT AND MASTER PLAN

81481



MASTER WATER TRANSFER PLAN 2003

WATER TRANSFERS-2

APPLECREEK SUBDIVISION

W. HOMER RD

3.5 Acres
Irr. Water

3.0 Acres
Irr. Water

3.5 Acres
Irr. Water

3.5 Acres
Irr. Water

3.5 Acres
Irr. Water

3.5 Acres
Irr. Water

3.5 Acres
Irr. Water

9.0 Acres
Irr. Water

3.5 Acres
Irr. Water

3.5 Acres
Irr. Water

AC_MASTER_d4-17 WOLIN APPROVED

10

9

8

1

2

7

3

6

4

5

AFFIDAVIT

LOST PURCHASE & SALE AGREEMENT

I, Tucker M. Johnson and Denise R. Johnson, husband and wife currently residing at 1159 W. Applecreek Ct., Eagle, Idaho 83616, and the owners and officers of Tandem Enterprises, LLP do hereby acknowledge and affirm that the attached Exhibit A is a true representative copy of the Reservation/Purchase Agreement we signed in 2003 with (original buyers) TIMOTHY AND FRACIS WILLIAMS for Lot 8 Block 1 Applecreek Subdivision in Ada County Idaho, and particularly that the Purchase Contract included 3.50 acres of ground water right 63-31495.


Tucker M. Johnson


Denise R. Johnson

STATE OF IDAHO)
COUNTY OF ADA)

On this the 13th day of March, 2015, before me the undersigned, a notary public in and for said State, personally appeared Tucker M. Johnson and Denise R. Johnson, known to me or proved to me to be the person whose name is subscribed to the within instrument and acknowledge to me that he executed the 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 Idaho
Residing at: Ada County
My Commission expires: 11-22-19

ROBERT T. SMITH
NOTARY PUBLIC
STATE OF IDAHO



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 24, 2017

EVERETT P DELAY
HOLLY DELAY
1359 W APPLECREEK CT
EAGLE ID 83616

Re: Transfer No: 81481
Water Right No(s): 63-34402

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) 334-2190.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Neely for". The signature is written in a cursive, flowing style.

Nick Miller
Regional Manager

Enclosure

CC:

TUCKER M JOHNSON
372 S EAGLE RD STE 328
EAGLE ID 83616

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2017 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.: 81481
Water Right No(s): 63-34402**

**EVERETT P DELAY
HOLLY DELAY
1359 W APPLECREEK CT
EAGLE ID 83616**

**TUCKER M JOHNSON
372 S EAGLE RD STE 328
EAGLE ID 83616**



**Rachel Neely
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

TO: Transfer No. 81481
FROM: Justin Shearer
DATE: August 17, 2017
RE: Evaluation of Application

The transfer creates water right 63-34402 from 63-31495 through the split process and adds a new point of diversion to the newly created right.

The site is at the northern most point of Eagle Road in Eagle Idaho, Lot 8, Block 1 in the Applecreek Subdivision, located off W Applecreek Rd southeast of the intersection of W Homer Rd and N Ballantyne Ln.

Contact person for the applicant is Tucker Johnson at 372 S Eagle Rd Suite 328, Eagle ID 83616.

Summary of Information Submitted

Authority to File: The Application for Transfer of Water Right was submitted and signed by Everett and Holly Delay, whom own the land at the POU. Based on warranty deed and sales agreements submitted as attachments to the application, the Delays also own 3.5 acres of irrigation within water right 63-31495.

Water Right Validity: The water right was decreed on January 14, 2009. Department standards on determining forfeiture state that forfeiture will not be found if use is resumed by the end of the sixth year following the decree. Based on aerial photography and infrared imagery, it is clear to see that use was continued in 2011, well before the deadline. Additionally, aerial photography and infrared imagery indicate that sustained use has taken place throughout the previous, consecutive, five-year period leading up to this transfer proposal. Thus, no forfeiture found.

Injury to Other Water Rights: Transfer proposes to change the point of diversion to a different, private well within the NWNW quarter-quarter, just west by approximately 350 meters of the current well in the NENW QQ being used for WR 63-31495. There is no evidence to suggest changes to water supply will occur and injury to other water rights is not apparent. The well is located just within the boundary of the Basin 63 GW Restricted Area, but because the proposed well is targeting similar groundwater to what has historically been used for this POU, injury to Boise River water rights is unlikely. Water bearing zone in current/historic POD well D0029562 is 175 to 342 ft, annular seal only to 20 feet, screens set at 332-342 ft. The water bearing zone in the new POD well D0031098 is 175 ft to 216 ft, annular seal only to 19 ft, and screens seat at 205-215 ft. Additionally, the proposed change in point of diversion will not be changing the target aquifer from one to another as it appears the historic pod may have diverted water from above 200 ft, but the target production zone was below 200 ft. The new POD has similar well completion, and ok for right holder to use ground water above 200 ft. since historically the right has done so. No mitigation should be needed to prevent injury to existing WR's.

Enlargement of Use: Transfer creates Water Right 63-34402 that allows for irrigation of 3.5 acres within a 5.1 PPU from its parent right that had 36.5 acres of irrigation authorized within a 54.8 acre PPU. This transfer would grant 0.06 cfs and 15.7 AF to the newly created right 63-34402. Because the applicant was sold 3.5 acres worth of water, this amount will be subtracted from right 63-31495 and subsequently used to fulfill 63-34402. The historic beneficial use will remain the same. There are no stacked water rights associated with the place of use for the proposed WR 63-34402. Period of use will remain the same. No enlargement is anticipated as a result of the proposed changes.

Local Public Interest: Review staff has no information to suggest this application is inconsistent with the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Discussion

The transfer would result in adding a Point of Diversion to the newly created water right 63-34402.

There are no direct overlapping rights at the POU for 63-34402, but land is within Capitol View Irrigation Inc boundary.

Because no ownership change request form was included with the transfer, a separate memo documenting ownership change was processed prior to the transfer as part of the split process.

WC DP fee upgrade/received for well D0031098.

The transfer application contemplates a PPU, but since PPU is in same 40 QQ, the Department is recommending a specific POU instead. Thus, WR 63-34402 will have a fixed POU of 3.5 acres rather than a 3.5 acre POU within a 5.1 PPU.

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.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

MEMORANDUM

Date: June 5, 2017

To: Transfer 81481
WR 63-31495
WR 63-34402

From: Justin Shearer

Re: Ownership Change Processed Prior to Transfer

Ownership change/split requested with transfer filing, a separate notice of ownership change form was not requested, nor required. Ownership change/split processed prior to the transfer, resulting in reduction to parent right 63-31495 POU and creation of split portion right 63-34402. Processing of transfer 81481 will affect split right 63-34402. An amendment to the transfer application was not requested nor required.