

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81451

This is to certify that: CRAIG DAVIS
14251 FROST RD
CALDWELL, ID 83607

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>
63-34108	WR/LICENSE	4/14/1988	0.050 cfs	11.2 af	N/A	2.5	LUNDY DRAIN

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>
63-34108	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>
63-34108	63-34108	0.050 cfs	11.2 af	N/A	2.5	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.050 cfs	11.2 af	N/A	2.5		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 20th day of September, 2017.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-34108
As Modified by Transfer No. 81451

In accordance with the approval of Transfer No. 81451, Water Right No. 63-34108 is now described as follows:

Right Holder: CRAIG DAVIS
 14251 FROST RD
 CALDWELL, ID 83607

Priority Date: 4/14/1988

Source: LUNDY DRAIN

Tributary: SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.050 cfs	11.2 af
			0.050 cfs	11.2 af

LOCATION OF POINT(S) OF DIVERSION

LUNDY DRAIN NESW Sec 22 Twp 03N Rge 04W CANYON 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	
03N	04W	22									2.5								2.5

POU Total Acres: 2.5

CONDITIONS OF APPROVAL

1. 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 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 the date of this approval.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

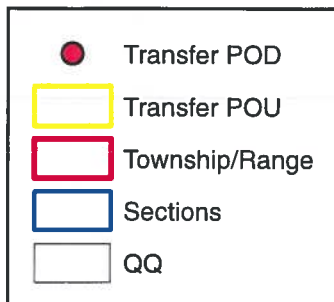
Transfer No. 81451

State of Idaho
Department of Water Resources

Attachment to Transfer No. 81451

Water Right(s): 63-34108

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.



0 0.03 0.06 0.12 Miles



DEPARTMENT OF
WATER RESOURCES

81488
81451

6. 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:

Water weir will provide measure. 2 1/2 HP pump draws irrigation water. In-stream reservoir will be developed above stream of the Point of Diversion to provide consistent flow to pump and aesthetic presentation.

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

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. 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 used in a mitigation plan limiting the use of water under the right(s). or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners. attach a [Lessor Designation](#) form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an [IRS Form W-9](#).
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** - ☐ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and 1/4 1/4 of section information. The *Map Tool*, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

[Signature]
Signature of applicant or authorized agent

Craig O Davis
Print name and title if applicable

Jan 31/17
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The [Fee Schedule](#) is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the [Application for Transfer Instructions](#).

FOR DEPARTMENT USE ONLY

Transfer includes 3 pages of attachments. Received by VC Date 1/31/17
Fee paid \$200 Date 1/31/17 Receipted by VC Receipt # C102962
Preliminary review by PH Date 01/31/17 Active in the Water Supply Bank? Yes ☐ No ☒
W-9 received? Yes ☐ No ☒ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☒

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

1/31/2017

WATER RIGHT NO. 63-34108

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CRAIG DAVIS 14251 FROST RD CALDWELL, ID 83607 208-887-6543
Original Owner	BILL HAUMANN 7809 STERLING AVE SAN BERNARDINO, CA 92410 (208)884-6901
Original Owner	VERNON HAUMANN RT 4 BOX 528 CALDWELL, ID 83605

Priority Date: 04/14/1988

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
LUNDY DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.05 CFS	11.2 AFA
Total Diversion			0.05 CFS	

Location of Point(s) of Diversion:

LUNDY DRAIN|NESW|Sec. 22|Township 03N|Range 04W|CANYON County

Licensed Diversion Capacity: 1.5

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
03N	04W	22		NESW	2.5									

Total Acres: 2.5

Conditions of Approval:

1. R32 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.

Dates:

Licensed Date: 04/02/1992

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector: And/Or

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

parent
63-10616

Section 22
Township 03N
Range 04W
NE 1/4 SW 1/4
Source: Lundy Drain





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

September 20, 2017

CRAIG DAVIS
14251 FROST RD
CALDWELL ID 83607

Re: Transfer No: 81451
Water Right No(s): 63-34108

Transfer Approval Notice

Dear Water Right Holder:

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,

 Rachel Neely for:

Nick Miller

Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 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.: 81451
Water Right No(s): 63-34108**

**CRAIG DAVIS
14251 FROST RD
CALDWELL ID 83607**



**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. 81451

FROM: Phill Hummer

DATE: 06/05/2017²⁰¹⁷

RE: Evaluation of Application

The applicant proposes to change the point of diversion to a different location in the same QQ. This new location is the same point of diversion proposed by application for permit no. 63-34375. The site is about 3.5 kilometers north of Marsing ID, north of the Snake River near the intersection of Highway 55/Sunnyslope Rd and Lowell Rd.

Summary of Information Submitted

Authority to File:

The applicant is the current owner and has the authority to file this transfer application.

Water Right Validity:

Based on satellite imagery it appears only about 1.8 acres have been irrigated in the last 5 years. 1.6 acres in the NESW and 0.2 acres in the NWSW, which is a difference of less than 1 acre. It is possible the full water right has been used since there are trees/bushes along the drain that might cover some irrigated land or the image was taken at times that don't show all the irrigation taking place. Additionally, the applicant purchased the property in 2015 and any non-use of the water right or the applicant's portion prior to the split was beyond Mr. Davis' control.

Injury to Other Water Rights:

There are no points of diversion between the existing POD and the location of the proposed POD. Therefore moving the point of diversion to a new location should not change the amount of water available to other water right holders on Lundy Drain.

Enlargement of Use:

The application for transfer was submitted along with an application for permit no. 63-34375. The application proposes 4.0 acres of irrigation within the NESW and 1.0 acre within the NWSW. The application covers the same property in the NESW as water right no. 63-34108. If the permit is approved it will be limited together with all rights to 0.02 cfs per acre and 4.5 afa to eliminate creating an enlargement and should have a combined use limit if licensed. Water right no. 63-34108 is already limited to 0.02 cfs and 4.5 afa when combined with other rights.

Local Public Interest:

The transfer application seeks to create a new POD on Lundy Drain, a drainage ditch that drains runoff water into the Snake River. As a drainage ditch additional diversions and withdraws should have no impact to fish and wildlife. The creation of an in stream dam may improve water quality of the Snake River by collecting sediments. For these reasons this application proposes a change consistent 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.

Summary**Water Right Overlap**

The transfer will create a new point of diversion for water right no. 63-34108. It will be the same POD as application no. 63-34375. That application also proposes irrigation of some of the same acres as well as some additional land in the NWSW of section 22, township 03N, and range 04W. The property is within the service area for Wilder Irrigation District and Boise Project Board of Control. The applicant has irrigation shares (not sure which company) but does not have access to or a system in place to utilize water delivered from either company.

Water Supply Bank

The right is not leased to the water supply bank.

Discussion

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.

If approved the following changes should be made to the conditions of water right no. 63-34108

Update condition R32 to R65

Add standard transfer conditions T07 and T08

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.