

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 81100

This is to certify that: EDWARD LODGE OR
PATRICIA ANNE LODGE
18500 SYMMS 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>
63-3602	WR/DECREED	4/26/1967	0.140 cfs	32.8 af	N/A	7.0	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>
63-3602	NO	NO	NO	YES	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>
63-3602	63-3602	0.140 cfs	32.8 af	N/A	7.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.140 cfs	32.8 af	N/A	7.0		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 14th day of November, 2016.



Chief, Water Allocation Bureau

WATER RIGHT NO. 63-3602**As Modified by Transfer No. 81100**

In accordance with the approval of Transfer No. 81100, Water Right No. 63-3602 is now described as follows:

Right Holder: PATRICIA ANNE LODGE OR
EDWARD LODGE
18500 SYMMS RD
CALDWELL, ID 83607

Priority Date: 4/26/1967

Source: GROUND WATER

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	1/01	to 12/31	0.020 cfs	0.6 af
IRRIGATION	3/15	to 11/15	0.140 cfs	31.5 af
STOCKWATER	1/01	to 12/31	0.020 cfs	0.7 af
			0.140 cfs	32.8 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SESW	Sec 25 Twp 03N Rge 04W CANYON County
GROUND WATER	SESW	Sec 25 Twp 03N Rge 04W CANYON County

PLACE OF USE: DOMESTIC

			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	25												X					

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	25												7.0					7.0

POU Total Acres: 7.0

PLACE OF USE: STOCKWATER

			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	25												X					

WATER RIGHT NO. 63-3602
As Modified by Transfer No. 81100

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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
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 use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. 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 02/06/2009.
5. Domestic use is for 1 home.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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 Application for Transfer No. 81100

Water Right No. 63-3602

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.



Legend

- Transfer POD
- Transfer POU
- Township/Range
- Sections
- QQ

0 0.0375 0.075 0.15 Miles



JUL 29 2016

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split

1. APPLICANT(S) Edward & Patricia A. Lealpe Phone 208-459-7158
 2. MAILING ADDRESS 18500 Summit Road City Caldwell
 State ID Zip 83607 Email poalej@oajelink.net

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

☒ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 63-3602

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 214 CFS cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	SW	25	3N	4W	Canyon	Ground Water	Existing
✓			SE	SW	25	3N	4W	Canyon	Ground Water	

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:

Not getting enough water to irrigate & use domestic water

- b. Who owns the property at the point(s) of diversion? Edward F. and Patricia A. Lodge
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 $\frac{1}{4}$ $\frac{1}{4}$ 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.

Patricia A. Lodge
Signature of applicant or authorized agent

PATRICIA A. LODGE
Print name and title if applicable

7/28/16
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 GA

Date 7/29/16

Fee paid \$200.00

Date 7/29/16

Received by GA

Receipt # W044470

Preliminary review by PTT

Date 10/25/16

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)

7/28/2016

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PATRICIA ANNE LODGE 18500 SYMMS RD CALDWELL, ID 83607 (208) 459-7158

Current Owner EDWARD LODGE
18500 SYMMS RD
CALDWELL, ID 83605
(208)459-7158

Status: Active

Tributary

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	3/15	11/15	0.140 CFS	31.5 AF
STOCKWATER	1/01	12/31	0.020 CFS	0.7 AF
DOMESTIC	1/01	12/31	0.020 CFS	0.6 AF
Total Diversion			0.140 CFS	32.8 AF

GROUND WATER SESW Sec. 25, Twp 03N, Rge 04W, CANYON County

STOCKWATER within CANYON County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	04W	25												X					

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	04W	25												X					

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	04W	25												7.0					7.0

PQU Total Acres: 7.0

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

7/28/2016

Conditions of Approval:

1. C18 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.
2. X01 Domestic use is for 1 home.
3. X02 Stockwater use is for 52 head range cows and/or horses.
4. S39 The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

Comments:

Dates and Other Information

Decreed Date: 2/6/2009
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: OR
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

62-3602





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

November 14, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

PATRICIA ANNE LODGE
EDWARD LODGE
18500 SYMMS RD
CALDWELL ID 83607

Re: Transfer No: 81100
Water Right No(s): 63-3602

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:", written in a cursive style.

Nick Miller

Western Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No.: 81100
Water Right No(s): 63-3602**

**PATRICIA ANNE LODGE
EDWARD LODGE
18500 SYMMS 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. 81100
FROM: Phill Hummer
DATE: 10/25/2016
RE: Evaluation of Application

The application for transfer proposes to add a second point of diversion to water right no. 63-3602. The second POD will be a new well that will also be the point of diversion for the applicant's recently filed application no. 63-34256. The applicant wants to drill another well because the existing well is not producing enough water to supply their house with water and irrigate the pasture land at the same time. Application no. 63-34256 and the subsequent license will authorize irrigation and stockwater use on the portion of their property not already covered by water right no. 63-3602.

The site is approximately 3.6 kilometers north east of Marsing, Idaho along Symms Rd between Chicken Dinner Road and Riverside Road.

Summary of Information Submitted

Authority to File:

Patricia Anne Lodge and Edward Lodge are the current owners of water right no. 63-3602. Department tax lot records indicate that Edward Lodge is the owner of the property at the place of use and the proposed point of diversion. As the owners of the water right and the property Edward and Patricia Anne have the authority to submit and sign this application for transfer. Even though the application form lists the applicants as Edward *and* Patricia Lodge the water right data entry uses the name connector "or". For this reason the application is acceptable with one signature.

Water Right Validity:

The water right is valid since the right was decreed on 02/06/2009 and beneficial use has occurred within the last five years. Beneficial use confirmed through in-office analysis of ArcMap imagery. There appears to be irrigation occurring within the entire POU in the 2015, 2103, 2011, and 2009 aerial images. Domestic and stockwater use verified via verbal communication with applicant on 07/26/2016 when they came to western region's office.

Injury to Other Water Rights:

The applicatts propose to add a point of diversion in the same QQ. When combined with application no. 63-34256 the total withdraw from the aquifer will be less than 150 af. It is likely there will be little to zero impact to the ground water levels in existing wells in the area. Additionally, There are no known ground water concerns around the proposed POD.

Enlargement of Use:

The approval of the transfer application will not create an enlargement of use.

Local Public Interest:

The changes proposed by the transfer application are 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.

Discussion**Additional Information**

Since the well is used for both domestic and other purposes, they should have paid the fee for a non-domestic drilling permit. During the review process I was unable to find any information regarding the applicants existing well. It is unclear if that well requires an upgrade fee or not. I requested the applicant send in copies of any well records they might have via phone on 10/27/2016.

Watermaster comments are not needed for this application.

Data entry affected the correct record, water right no. 63-3602 and right id 599339.

The water right was originally licensed on 11/6/1973 and it was claimed during the Snake River Basin Adjudication on 03/02/1990. The partial decree was issued on 02/06/2009 and the final unified decree was signed on 08/25/2014.

Water Right Overlap Issues

The place of use for water right no. 63-3602 is overlapped by water rights that authorize the service area for the Wilder Irrigation District and the Boise Project Board of Control but the applicants do not have shares with either company. Additionally, department records indicate the place of use of water right no. 63-22996 may overlap the place of use boundary for water right no. 63-3602. However, the conditions and comments of the water right include a parcel number that indicate the place of use may be on a different property than the place of use of water right no. 63-3602 (it may even be in a different QQ). The applicants have also submitted application no. 63-34256. The purpose of the application is to authorize/provide irrigation water to the portion of their property that is not already authorized for irrigation under water right no. 63-3602. The application as it is now has a place of use that overlaps the current place of use of water right no. 63-3602. Since water right no. 63-3602 authorizes the full 0.02 cfs per acre (0.14 cfs for 7 acres) the application should be approved such that there is no overlap in place of use.

Mitigation was not required for the approval of the initial license and it is not needed before the transfer application can be approved.

The water right is not leased to the water bank.

Summary

If approved the following changes should be made to the conditions of the water right:

- 046 should be added, source is groundwater
- C18 should be replaced with T19
- X02 should be removed per usage description
- R65 should be added, potential overlap with application no. 63-34256
- S39 should be updated to X61
- 01M should be added, irrigation of greater than 5 acres.

Drilling fee upgrade is not required because the applicant is going to drill a new well.

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.