

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**AMENDED TRANSFER OF WATER RIGHT AMENDED
TRANSFER NO. 79305**

This is to certify that: **TERRIE E TRAIL
WALTER L TRAIL
5308 E TRAIL RD
KING HILL, ID 83633**

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>
2-4021	WR/DECREED	5/10/1965	12.000 cfs	N/A	600.0	4558.0	SNAKE RIVER

Purpose of Transfer (Changes Proposed)

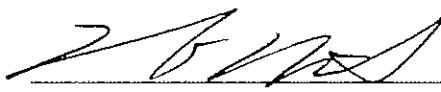
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
2-4021	NO	NO	YES	NO	NO	NO

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>
2-4021	2-4021	12.000 cfs	N/A	600.0	4558.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		12.000 cfs	N/A	600.0	4558.0		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 21st day of September 2015.


for Chief, Water Allocation Bureau

WATER RIGHT NO. 2-4021

As Modified by Transfer No. 79305

In accordance with the approval of Transfer No. 79305, Water Right No. 2-4021 is now described as follows:

Right Holder: WALTER L TRAIL AND/OR
TERRIE E TRAIL
5308 E TRAIL RD
KING HILL, ID 83633

Priority Date: 5/10/1965

Source: SNAKE RIVER

Tributary: COLUMBIA RIVER

BENEFICIAL USE

IRRIGATION

From

03/15

To

to 11/15

Diversion Rate

12.000 cfs

12.000 cfs

LOCATION OF POINT(S) OF DIVERSION

SNAKE RIVER

L6 (NWSW)

Sec 9 Twp 06S Rge 11E ELMORE County

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
05S	10E	35				38.0									40.0			39.0	117.0
05S	10E	36	17.0	37.0	10.0		38.0	17.0	40.0	32.0	11.0	40.0	35.0	12.0					289.0
06S	10E	1						41.0	40.0	10.0	35.0	39.0	39.0	40.0		30.0	40.0	30.0	344.0
06S	10E	2	41.0			33.0												39.0	113.0
06S	10E	11	40.0		40.0	39.0					40.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	438.0
06S	10E	12	40.0	40.0	40.0	40.0	40.0	39.0	39.0	40.0	40.0	39.0	38.0	21.0	40.0	40.0	39.0	39.0	614.0
06S	10E	13	39.0	39.0	40.0	40.0	39.0	39.0	40.0	40.0	40.0	40.0			40.0	40.0	40.0	40.0	556.0
06S	10E	14	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0				39.0	30.0			428.0
06S	10E	24	40.0	39.0	40.0	40.0									40.0	40.0			239.0
06S	11E	6										10.0							10.0
06S	11E	7	25.0	25.0	40.0	40.0	30.0	37.0	37.0	40.0	40.0	38.0	37.0	39.0	40.0	40.0	39.0	40.0	587.0
06S	11E	17						40.0	40.0			40.0							120.0
06S	11E	18	38.0	39.0	40.0	39.0	39.0	37.0	38.0	40.0	40.0	38.0	38.0	40.0	40.0	40.0	40.0		586.0
06S	11E	19						39.0	39.0			39.0							117.0

Right Acre Limit: 600.0

POU Total Acres: 4558.0

CONDITIONS OF APPROVAL

- The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

Transfer No. 79305

WATER RIGHT NO. 2-4021
As Modified by Transfer No. 79305

CONDITIONS OF APPROVAL

2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. This right is limited to the irrigation of a specific 600 acres within the 4,558 acre place of use authorized by this right in a single irrigation season. The specific 600 acres to be irrigated by the right holder shall be identified prior to use by submittal of a land list and a representative electronic shape file or by submittal of a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 600 acres to be irrigated within the 4,558 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
5. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 02.
6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. The following rights are diverted through the point of diversion described above: 2-4021, 2-103, 2-2209B, 2-10189 & 2-10450.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the place of use.
9. This right does not grant any right-of-way or easement across the land of another.
10. The diversion and use of water described in Transfer 79305 may be subject to additional conditions and limitations under a separate agreement recorded as Instrument No. 449132 in Elmore County records. The Department is not a party to that agreement and the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the parties to the agreement.



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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 22, 2015

TERRIE E TRAIL
WALTER L TRAIL
5308 E TRAIL RD
KING HILL ID 83633

Re: Transfer No. 79305
Water Right No. 2-4021

Amended Transfer Approval Notice

Dear Water Right Holder <and other Interested Persons>:

The Department of Water Resources has issued the enclosed approved amended 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 Naely for:

Nick Miller

Western Region Manager

Enclosure

CC:

CANDICE MC HUGH
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702

USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing AMENDED TRANSFER APPROVAL to the person(s) listed below:

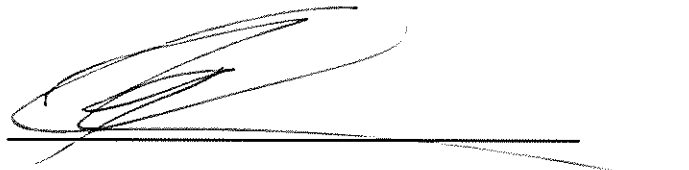
**Re: Transfer No.: 79305
Water Right No(s): 2-4021**

**TERRIE E TRAIL
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**USDI BLM
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BOISE ID 83709-1657**

**CANDICE MC HUGH
MC HUGH BROMLEY PLLC
380 S 4TH ST STE 103
BOISE ID 83702**

**CORBIN KNOWLES
WATERMASTER OF DISTRICT 2
322 E FRONT STREET
BOISE ID 83702**

A handwritten signature in black ink, appearing to read 'Rachel Neely', is written over a horizontal line.

**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.