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OCT 25 2012

Department of Water Resources
Eastern Region

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Transfer No. 78048

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1**

Name of Applicant(s) Natural Guardian LLC Phone: 208-528-6635

Mailing Address: 2880 N. 55 W., Idaho Falls, ID 83402 Email: _____

- ☐ 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 Luke H. Marchant Phone: (208) 523-0620

Mailing Address: P.O. Box 50130, Idaho Falls, ID 83405 Email: lmarchant@holdenlegal.com

- ☐ Send all correspondence for this application to the representative and not 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.


Signature of Applicant or Authorized Representative

Luke Marchant, Attorney
Print Name and Title if applicable

10/22/12
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change Place of use
☐ Change nature of use ☐ Change period of use ☐ Other: _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label if **Part 1A.2**. The purpose of this transfer is to change the place of use for eleven of the applicant's water rights. This is being done so that the applicant can install five new pivots. This transfer will not change the stock water component of any of these water rights.

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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					
✓ ☐	32-26	3.64 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-27	0.5 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-28	1 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-38	3 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-39	2.5 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-40	3.24 cfs	Irrigation	04/01 to 11/01	Medicine Lodge Creek/Sinks
✓ ☐	32-41	0.74 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-2022	2.8 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-2048	2.9 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	32-2077	5.24 cfs	Irrigation	04/01 to 10/31	Medicine Lodge Creek/Sinks
✓ ☐	31-2471	0.8 cfs	Irrigation	04/01 to 11/01	Unnamed stream/ Medicine Lodge Creek

Total authorized under rights: 26.36 cfs and/or _____ ac-ft.

2. Total amount of water being transferred or changed 26.36 Cubic feet per second and/or _____ acre-foot 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 for diversion

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	
10N	35E	5									32.4	28	26.9	30.8					118.1
		7	29.5	29.8	26.4	26.6													112.3
		8		19	17.2	17.6	39	12.2	11	39.1	39.2	7.9	6.7	37.7	36.6	23.8	21	14	342
		9							29.7	6	19.4	40	25.3	4.2					124.6
		20	28.4			26									18.2			12.5	85.1
		21						32.9	32.7		8.7	39.7	32.3	5.6					151.9

Total Acres (for irrigation use) 934

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**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. These water rights currently divert water out of Medicine Lodge Creek into ditches from two different points on the creek. The lower point of diversion will receive less use since the irrigation system will be piped from the upper point of diversion. Accommodations will be made for any required measuring devices and controlling works.

- b. Who owns the property at the point(s) of diversion? Todd and Carolyn Shenton own the property at the upper point of diversion. The applicant owns the property at the lower point of diversion.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: The location of the current points of diversion will not change, however, instead of an open ditch at the upper point of diversion, water will be diverted into a pipeline. Due to historical usage of the upper point of diversion, applicant's have an oral agreement for access and use of this point of diversion.

- 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 or 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: Some of the land that is currently irrigated will remain irrigated. Other parts will no longer be irrigated as the place of use is rearranged to accommodate the new pivots.
- 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) of use: _____

- 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: _____

PART 2

Insert Part 2A reports into the application following Part 1.

☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/> , Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number _____

- [illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per 1/4 1/4 tract)

[illegible]

Total Acres (for irrigation use) _____

**APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3**

- ✓ Attach a map of the diversion, measurement, control, and distribution system. Label it **Attachment #7a**.
- ✓ 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. Label it **Attachment #7b**. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required in Part 3B above.

[illegible]

Received by: Km Date: 10/23/12 Prelim. Check by Km Date: 10/23
 Fee paid: 2,260.00 Date: 4/25/12 Received by Km Receipt # E037822
 Add'l fee paid _____ Date: _____ Received by _____ Receipt # _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 an Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

***Means the item is always required and must be included with the application.**

Yes N/A

- ☒ * 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 transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☒ #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).
- ☒ ☐ #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 <http://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: _____