

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85190**

This is to certify that: SCHENK LAND & CATTLE LP
1380 S 50 W
OAKLEY, ID 83346-8715

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>
45-12444	WR/DECREED	4/1/1870	4.133 cfs	N/A	300.0	892.0	LAND RANCH SPRING

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>
45-12444	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>
45-12444	45-12444	4.133 cfs	N/A	300.0	892.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		4.133cfs	N/A	300.0	892.0		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 3rd day of November, 2021.



Southern Region Manager

Transfer No. 85190

WATER RIGHT NO. 45-12444**As Modified by Transfer No. 85190**

In accordance with the approval of Transfer No. 85190, Water Right No. 45-12444 is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
1380 S 50 W
OAKLEY, ID 83346-8715

Priority Date: 4/1/1870

Source: LAND RANCH SPRING

Tributary: LAND CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
DOMESTIC	01/01	to 12/31	0.500 cfs	
IRRIGATION	03/01	to 12/15	3.133 cfs	
STOCKWATER	01/01	to 12/31	0.500 cfs	241.0 af
			4.133 cfs	

LOCATION OF POINT(S) OF DIVERSION

LAND RANCH SPRING SESENE Sec 7 Twp 13S Rge 23E CASSIA County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	22E	1	X																
			L 1																

PLACE OF USE: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	22E	36	39.0	40.0	38.0	40.0	40.0	33.0	34.0	37.0	40.0	34.0	29.0	40.0	40.0	38.0	39.0	32.0	593.0
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2														
13S	22E	1	13.0	41.0	21.0		36.0			20.0						L 3	L 4		131.0
			L 1	L 2			L 3												
13S	23E	6	29.0	29.0															58.0
			L 1	L 2															

Right Acre Limit: 300.0

POU Total Acres: 892.0

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	22E	25									X				X	X	X	X	
12S	23E	30													X	X	X	X	
																L 3	L 4		0

Transfer No. 85190

WATER RIGHT NO. 45-12444
As Modified by Transfer No. 85190

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 300 acres within the authorized place of use in a single irrigation season.
2. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 892 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may 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. 140.
5. 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).
6. This right does not grant any right-of-way or easement across the land of another.
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 Idaho Code § 42-1412(6), 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 # 85190
45-12444

This map depicts the STOCKWATER 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.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.5 1 2 Miles





November 4, 2021

SCHENK LAND & CATTLE LP
1380 S 50 W
OAKLEY ID 83346-8715

Re: Transfer No: 85190
Water Right No(s): 45-12444

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) 736-3033.

Sincerely,



Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

PACIFIC LIFE INSURANCE CO
C/O EQUITABLE AGRIFINANCE LLC
6300 C ST SW STOP 3B-CR
CEDAR RAPIDS IA 52404-7470

WATER DISTRICTC 140
ADAM MC COY
355 W 500 S
BURLEY ID 83318-5229

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2021 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.: 85190
Water Right No(s): 45-12444

SCHENK LAND & CATTLE LP
1380 S 50 W
OAKLEY ID 83346-8715

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

PACIFIC LIFE INSURANCE CO
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6300 C ST SW STOP 3B-CR
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WATER DISTRICTC 140
ADAM MC COY
355 W 500 S
BURLEY ID 83318-5229



Denise Maline
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

Date: September 22, 2021
To: Schenk Land & Cattle LP File
From: Kent Aasa
Re: Evaluation of Sufficiency of Information Submitted

Application proposes to change the recorded place of use of an existing Land Ranch Spring water right (0.50 cfs) to reflect actual water use for stock water purposes at a feedlot facility located approximately 3.4 miles east and 7.2 miles north of Oakley. The feedlot facility and the point of diversion are located in Water District 140 so water master comments were solicited and the Watermaster did not object to the transfer.

- **Authority to File:** Schenk Land & Cattle LP is registered with the Secretary of State and the applicant has signing authority.
- **Water Right Validity:** Recent aerial and satellite imagery indicate that the property involved with this transfer appears to be used for stock water/commercial activities.
- **Injury to Other Water Rights:** None anticipated.
- **Enlargement of Use:** None anticipated.
- **Local Public Interest:** No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:** Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:** None Anticipated
- **Effect of the Agricultural Base of the Area:** None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

*** **Proof of Publication** ***

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

SHERRI DAVIS, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

IDAHO DEPT OF WATER RESOURCES

Denise Lauerman

2735 AIRPORT WAY

BOISE ID 83705

ORDER NUMBER 117994

(Legals Clerk)

STATE OF IDAHO)

SS

COUNTY OF TWIN FALLS)

On this 26th day of August in the year of 2021 before me, a Notary Public, personally appeared before me Sherri Davis known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Reba M Davis
Notary Public FOR Idaho

Residing at: Twin Falls, Idaho

My Commission expires: 5/8/26

Section: Legals

Category: 50 Legal

PUBLISHED ON: 08/19/2021, 08/26/2021

TOTAL AD COST: 235.98

FILED ON: 8/26/2021

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

✓ **45-14539**

ALBION 12 INVESTMENTS LLC
7595 E MCDONALD DR STE 130
SCOTTSDALE, AZ 85250-6081

Point of Diversion SWNWSE S16 T12S R25E CASSIA County
Source UNNAMED STREAM Tributary SUMMIT CREEK

Point of Diversion SENENW S21 T12S R25E CASSIA County

Source SPRING CREEK Tributary HOWELL CREEK

Point of Diversion SENENW S21 T12S R25E CASSIA County

Source SPRING CREEK Tributary HOWELL CREEK

Use: AESTHETIC STORAGE 0101 to 12% 1 7.5 AF

Use: WILDLIFE STORAGE 0101 to 12% 1 7.5 AF

Total Diversion: 7.5 AF

Date Filed: 07-27-2021

Place Of Use: AESTHETIC STORAGE, WILDLIFE STORAGE

T12S R25E S16 NWSE

T12S R25E S21 NENW

Application for permit proposes the appropriation of 3.6 af from Spring Creek and 3.9 af from an unnamed stream (total for both 7.5 af) for uses associated with 3 on-stream ponds. A mitigation plan was submitted with application to account for evaporative losses and initial fill of ponds. Two ponds on Spring Creek are located approximately 1.9 miles east and 2.7 miles to 2.8 miles south of Albion. The pond on unnamed stream is located approximately 2 miles east and 2.4 to 2.5 miles south of Albion.

✓ **NOTICE OF PROPOSED CHANGE OF WATER RIGHT**

TRANSFER NO. 85056

GARY DE MOSS and HELEN DE MOSS, PO BOX 61, BLISS, ID 83314 has filed Application No. 85056 for changes to the following water rights within GOODING County(s): Right No(s) 37-22168. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and point of diversion (POD) for a 6.0 acre (0.12 cfs) portion of ground water irrigation right 37-22168 which is currently appurtenant to land located approximately 9.7 to 11.0 miles west and 4.5 to 7.0 miles north of the intersection of State Highway 46 and U.S. Highway 26 in Gooding. The proposed POU is located approximately 4.5 miles west and 2.2 miles north of Gooding. A new well and an existing well located within the proposed POU will be utilized as PODs for the transferred portion.

✓ **TRANSFER NO. 85172**

ALBION 12 INVESTMENTS LLC, 7595 E MCDONALD DR STE 130, SCOTTSDALE, AZ 85250-6081 has filed Application No. 85172 for changes to the following water rights within CASSIA County(s): Right No(s) 45-517D. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes adding a new point of diversion to a 0.2 cfs Spring Creek irrigation water right that is located approximately 1.9 miles east and 2.8 miles south of Albion. Application also proposes removing a currently authorized point of diversion from the same water right.

✓ **TRANSFER NO. 85190**

SCHENK LAND & CATTLE LP, 1380 S 50 W, OAKLEY, ID 83346-8715 has filed Application No. 85190 for changes to the following water rights within CASSIA County(s): Right No(s) 45-12444. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the recorded place of use of an existing Land Ranch Spring water right (0.50 cfs) to reflect actual water use for stock water purposes at a feedlot facility located approximately 3.4 miles east and 7.2 miles north of Oakley.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights & proposed transfer, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **September 7, 2021**. The protestant must also send a copy of the protest to the applicant.

Published 19, 26 August, 2021



✓ DM
9-20-2021