

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 85007**

This is to certify that: **JIMMY D KEMPTON**
1158 E 1000 S
ALBION, ID 83311

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>
45-2732	WR/DECREED	9/19/1966	1.490 cfs	428.0 af	N/A	107.0	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>
45-2732	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>
45-2732	45-2732	1.490 cfs	428.0 af	N/A	107.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		1.490 cfs	428.0 af	N/A	107.0		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 30th day of July, 2021.



Southern Region Manager

WATER RIGHT NO. 45-2732

As Modified by Transfer No. 85007

In accordance with the approval of Transfer No. 85007, Water Right No. 45-2732 is now described as follows:

Right Holder: JIMMY D KEMPTON
1158 E 1000 S
ALBION, ID 83311

Priority Date: 9/19/1966

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/31	1.490 cfs	428.0 af
			1.490 cfs	428.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	SWSW	Sec 8	Twp 12S Rge 25E	CASSIA County
GROUND WATER	SWSW	Sec 8	Twp 12S Rge 25E	CASSIA 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	
12S	25E	8						15.0	22.0			39.0	31.0						107.0

POU Total Acres: 107.0

CONDITIONS OF APPROVAL

1. Rights 45-320B, 45-329C, 45-2732, and 45-13638 when combined shall not exceed the irrigation of 107.0 acres.
2. Rights 45-320B, 45-329C, 45-2732, and 45-13638 when combined shall provide no more than 0.02 cfs per acre for irrigation at the place of use
3. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.

Transfer No. 85007

WATER RIGHT NO. 45-2732
As Modified by Transfer No. 85007

CONDITIONS OF APPROVAL

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. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
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 # 85007
45-2732

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.



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

0 0.175 0.35 0.7 Miles





July 30, 2021

JIMMY D KEMPTON
1158 E 1000 S
ALBION ID 83311

Re: Transfer No: 85007
Water Right No(s): 45-2732

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:

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

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 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.: 85007
Water Right No(s): 45-2732

JIMMY D KEMPTON
1158 E 1000 S
ALBION ID 83311

WATER DISTRICT 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: July 9, 2021
To: Transfer #85007; Jimmy D. Kempton POD Transfer File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add a point of diversion (POD) to ground water irrigation right 45-2732. The new well will be located approximately 0.5 mile east and 1.6 miles south of Albion, and with the existing POD, will irrigate 107.0 acres with a flow rate of 1.49 cfs.

The transfer was advertised because it adds a POD to a water right, and since it is located in Water District 140, Watermaster comments were solicited. No protests were filed, and the Watermaster did not object to the transfer.

Surface water rights at the same place of use, but not involved in the transfer are: 45-320B, 45-329C, and 45-13638.

- **Authority to File:**
The application was signed by the applicant, Jimmy D. Kempton. The water right, as well as the property it is appurtenant to, are shown in the Department's database as being owned by Mr. Kempton.
- **Water Right Validity:**
Right 45-2732 was decreed in 2005. Aerial imagery shows the property to be well-irrigated, so forfeiture is likely not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The proposed POD is approximately 740' from the existing well.
- **Enlargement of Use:**
None anticipated. No increase in flow rate, volume, or irrigated acreage is proposed
- **Local Public Interest:**
No issues anticipated. The transfer was advertised and was not protested.
- **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

JENNY GREEN, 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

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

ORDER NUMBER 115522

Jenny Green
(Legal Clerk)

STATE OF IDAHO)
 SS

COUNTY OF TWIN FALLS)

On this 24 day of June in the year of 2021 before me, a Notary Public, personally appeared before me Jenny Green 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.

Amy Wiesmore
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 9-4-26



Section: Legals

Category: 50 Legal

PUBLISHED ON: 06/17/2021, 06/24/2021

TOTAL AD COST: 78.84

FILED ON: 6/24/2021

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 85007**

JIMMY D KEMPTON, 1158 E 1000 S, ALBION, ID 83311 has filed Application No. 85007 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2732; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynew-transfers>. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add a point of diversion (POD) to ground water irrigation right 45-2732. The new well will be located approximately 0.5 mile east and 1.6 miles south of Albion, and with the existing POD, will irrigate 107.0 acres with a flow rate of 1.49 cfs.

For additional information concerning the property location, contact Southern Region office at (208)736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department 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 July 6, 2021. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Published on June 17th & 24th, 2021

RECEIVED

JUN 30 2021

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ DM 7.6.2021

Maline, Denise

From: Adam McCoy <adam@waterwellconsultants.com>
Sent: Monday, June 14, 2021 2:40 PM
To: Maline, Denise
Subject: RE: Comment Letter for Transfer 85007 (Kempton)

Denise,
I don't see any issues from our end regarding the new point of diversion for the transfer.

Thanks,
Adam

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Thursday, June 10, 2021 3:22 PM
To: Adam McCoy <adam@waterwellconsultants.com>
Subject: Comment Letter for Transfer 85007 (Kempton)

Good afternoon Adam,

Attached is an application for transfer currently being processed by the department. Please review the application and provide any necessary comments within 21 days.

If you have any questions regarding this application, please feel free to contact Water Resource Agent Jim Bitzenburg at (208) 736-3033.

Thank you in advance,

Denise @ IDWR

Denise Maline, Administrative Assistant
Idaho Dept of Water Resources, Southern Region
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Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov