

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 83658**

This is to certify that: **PATRICIA ASHER**
PO BOX 143
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>
45-14313	WR/DECREED	8/8/1875	0.190 cfs	N/A	N/A	9.6	MARSH CREEK

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>
45-14313	NO	YES	NO	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>
45-14313	45-14313	0.190 cfs	N/A	N/A	9.6	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.190 cfs	N/A	N/A	9.6		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 9th day of April, 2020


Southern Region Manager

WATER RIGHT NO. 45-14313

As Modified by Transfer No. 83658

In accordance with the approval of Transfer No. 83658, Water Right No. 45-14313 is now described as follows:

Right Holder: PATRICIA ASHER
PO BOX 143
ALBION, ID 83311

Priority Date: 8/8/1875

Source: MARSH CREEK

Tributary: SNAKE RIVER

BENEFICIAL USE

IRRIGATION

From

04/01

To

to 10/31

Diversion Rate

0.190 cfs

0.190 cfs

LOCATION OF POINT(S) OF DIVERSION

MARSH CREEK

L4 (NV/NW)

Sec 5 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	6													9.6				9.6

POU Total Acres: 9.6

CONDITIONS OF APPROVAL

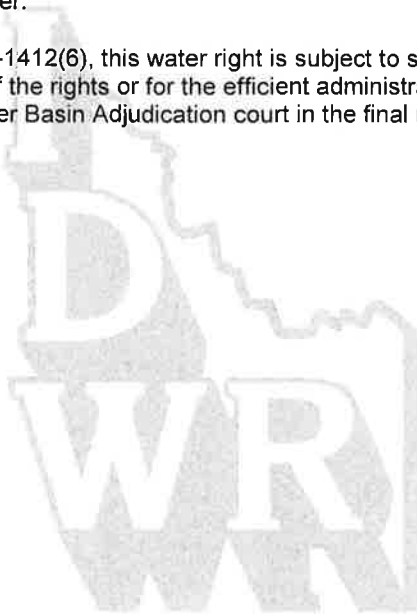
1. Rights 45-14312 and 45-14313 when combined shall not exceed the irrigation of 14 acres.
2. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than May 13, 2005.
3. 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. 45F.
4. 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).
5. 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.

Transfer No. 83658

WATER RIGHT NO. 45-14313
As Modified by Transfer No. 83658

CONDITIONS OF APPROVAL

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 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 # 83658
45-14313

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 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION • 650 ADDISON AVE W STE 500 • TWIN FALLS ID 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037

Website: www.idwr.idaho.gov • Email: southerninfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

April 14, 2020

PATRICIA ASHER
PO BOX 143
ALBION ID 83311

Re: Transfer No: 83658
Water Right No(s): 45-14313

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,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

c:

WATER DISTRICT 45F
DON GUNDERSON
1047 E 1000 S
ALBION ID 83311-9708

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2020 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.: 83658

Water Right No(s): 45-14313

PATRICIA ASHER
PO BOX 143
ALBION ID 83311

WATER DISTRICT 45F
DON GUNDERSON
1047 E 1000 S
ALBION ID 83311-9708



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: March 18, 2020
To: Transfer # 83658 File
From: Benny Walker
Re: Evaluation of Sufficiency of Information Submitted

Application proposes to change the point of diversion for a 0.19 cfs Marsh Creek irrigation right to a new location approximately 1.8 miles downstream. The right is currently diverted at a point located approximately 1.0 mile south and 1.0 mile west from the northwest corner of the Albion City Park in Albion. The proposed new diversion location is an existing diversion point located approximately 0.1 mile north and 0.5 mile east from the northwest corner of the Albion City Park. This change will allow for a more efficient use of the water right. The right involved with the application is located within Water District #45F. Watermaster comments were solicited and consent was given. Application was subject to notice and protest. No protests were received.

- **Authority to File:**
The applicant is the owner of the water right involved in the transfer. The applicant submitted a letter, from the owner of the proposed point of diversion on Marsh Creek, allowing for the use of his diversion to divert the applicants water right 45-14313
- **Water Right Validity:**
The right involved with this transfer was decreed in the SRBA. Aerial photography indicates that the water right has been used in recent years.
- **Injury to Other Water Rights:**
None anticipated. Approvals from users of the shared POD on Marsh Creek consented to allow the applicant to change the POD.
- **Enlargement of Use:**
None anticipated. No change to the place of use is proposed.
- **Local Public Interest:**
No negative impacts anticipated. Application was subject to notice and protest. No protests were received.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on Economy of the Local Area:**
No issues anticipated
- **Effect of the Agricultural Base of the Local 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

RUBY AUFDERHEIDE, 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:

RECEIVED

MAR 09 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

ORDER NUMBER 98460

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
 .SS
COUNTY OF TWIN FALLS)

On this 27 day of February in the year of 2020 before me, a Notary Public, personally appeared before me Ruby Aufderheide 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.

Erica Izaguirre
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 8/7/25

Section: Legals

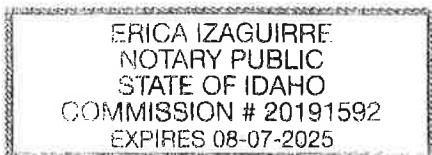
Category: 50 Legal

PUBLISHED ON: 02/20/2020, 02/27/2020

✓ DM 3-11-2020

See Next Page

TOTAL AD COST: 227.25
FILED ON: 2/27/2020



*** Proof of Publication ***

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

✓ 47-17712

LOUIS N BERG

TERRISA J BERG

19032 HIGHWAY 30

BUHL, ID 83316-5060

Point of Diversion NWSE S30 T08S R14E TWIN FALLS County

Source GROUND WATER Tributary

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 1/13/2020

Place Of Use: DOMESTIC

T08S R14E S30 NWSE

Application proposes diverting up to 0.04 cfs from an existing well for domestic uses associated with an existing home. The Place of Use (POU) and Point of Diversion (POD) are located approximately 4.7 miles west and 6.8 miles north of Buhl. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83657**

✓ PATRICIA ASHER, PO BOX 143, ALBION, ID 83311; has filed Application No. 83657 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14312. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.22 cfs ground water irrigation right currently diverted from a well located approximately 0.6 miles south and 0.1 mile east from the northwest corner of the Albion City Park in Albion. The proposed new point of diversion is an existing well located approximately 0.4 miles south and 0.4 miles east from the northwest corner of the Albion City Park.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83658**

✓ PATRICIA ASHER, PO BOX 143, ALBION, ID 83311; has filed Application No. 83658 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14313. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the point of diversion for a 0.19 cfs Marsh Creek irrigation right to a new location approximately 1.8 miles downstream. The right is currently diverted at a point located approximately 1.0 mile south and 1.0 mile west from the northwest corner of the Albion City Park in Albion. The proposed new diversion location is an existing diversion point located approximately 0.1 mile north and 0.5 mile east from the northwest corner of the Albion City Park.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 83880**

✓ DANIEL G WARD, 227 E 400 S, BURLEY, ID 83318; has filed Application No. 83880 for changes to the following water rights within CASSIA County(s): Right No(s). 45-14422. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion (add a new well to an existing system) to a 0.06 cfs ground water right for commercial and stockwater uses for a facility located approximately 5.25 to 5.5 miles south and 4.8 to 5.0 miles west of the center of Burley. The new well is intended to be a backup well to two existing wells and will be drilled approximately 600 feet east of the facility.

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 &/or 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 **March 9, 2020**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PUBLISH: February 20 and 27, 2020

RECEIVED

MAR 09 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

✓ dm 3/11/2020

Maline, Denise

From: gundy@safelink.net
Sent: Sunday, March 08, 2020 5:19 PM
To: Maline, Denise
Subject: Transfer No. 83658
Attachments: Scan Patricia Asher WR Tran 45-14313 LR.pdf

Importance: High

Dear Denise,

Hope you had a great weekend! I'm trying to get caught up on my end.

I hope this attachment makes sense, after reading it I'm a little confused!

I only want IDWR to realize the conditions that have developed the last few years but as I indicated, Leroy Robinson is in compliance at the POD & I have no problems in approving the transfer.

Sincerely,

..... Don G. Gunderson, Watermaster
Marsh Creek Water District 45-f
gundy@safelink.net



RECEIVED

MAR 09 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

E-mail

Marsh Creek Water District 45f

3/6/2020

State of Idaho
Department of Water Resources
Denise Maline
Administrative Assistant

Re: Transfer No. 83658
Water Right No: 45-14313

Dear Denise,

My approval provided everyone concerned is made aware that this transfer of Patricia Asher is one of several transfers made that is directed to Leroy Robinson's POD.

- There are three acquired water rights from the Starrh Ditch Lateral dated 8/8/1875.
 - Purchased Elaine Asher ground consisting of .23cfs
 - Leasing Patricia Asher's ground [I believe] of .19cfs
 - Erickson/Redman ground consisting of .07cfs
- Also, in addition he has his own decreed Water Right 45f-529 dated in 1876 consisting .60cfs
- In addition to the City of Albion 'DEQ' Irrigation requirements of .26cfs which is a portion of the city's total .91cfs which is so stated within the transfer in place and is a 1873 1st water right within the water district 45-f.

It will be noted by me that in the past Leroy has handled the irrigation and release of water beneficially and that his POD is also in compliance with IDWR.

Sincerely,

Don G. Gunderson, Watermaster
Marsh Creek Water District 45-f
gundy@safelink.net

Enclosure(s)

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED

MAR 09 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

E-mail

Transfer Application No.: 83658

Water Right No(s): 45-14313

Transfer Applicant's Name: PATRICIA ASHER
PO BOX 143
ALBION ID 83311

Water master's Recommendation:

a) I do not oppose approval of this application.

b) X I do not oppose approval of this application if it is conditioned as follows:

*we'll have
Leary ~~has~~ at this POD with the total of .49 CFS at 8/8/1875
plus an additional .60 CFS for 1876 and .26 CFS of 1873 being
used at this POD on Marsh Creek. (See below)*

c) I oppose approval of this application for the following reasons:

d) b) Additional comments:

*As long as he follows the Decreed Rules when the
watermaster calls the shot. The Irrigation by date is shut off.*

Dated this 6th day of March, 2020

Water District No. 45F



Water master's Signature

DON G. GUNDERSON

Printed Name

State of Idaho
Department of Water Resources
Transfer of Water Right(s)
RECOMMENDATION FORM

RECEIVED

FEB 20 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

(E-mail)

Transfer Application No.: 83658

Water Right No(s): 45-14313

Transfer Applicant's Name: PATRICIA ASHER
PO BOX 143
ALBION ID 83311

Recommendation:

- a) _____ I do not oppose approval of this application.
- b) _____ I do not oppose approval of this application if it is conditioned as follows:
- c) _____ I oppose approval of this application for the following reasons:
- d) X Additional comments:

The application was submitted to change the point of diversion for a Marsh Creek irrigation water right for better irrigation practices. The infrastructure for the proposed point of diversion is pre-existing and no other physical PoD or water diversion changes are proposed. IDFG therefore has no comments or recommendations at this time.

Dated this 20 day of FEBRUARY, 2020

Idaho Dept of Fish & Game

Keats Conley

Signature

KEATS Conley

Printed Name