

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 83898**

This is to certify that: **ALAN J HARPER AND  
BEVERLY K HARPER  
1978 S 2350 E  
MALTA, ID 83342-8645**

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>
43-2295K	WR/DECREED	3/5/1945	0.970 cfs	560.0 af	140.0	177.0	GROUND WATER
43-2454	WR/DECREED	12/31/1956	2.400 cfs	708.0 af	N/A	177.0	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>
43-2295K	NO	NO	NO	YES	NO	NO
43-2454	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>
43-2295K	43-2295K	0.970 cfs	560.0 af	140.0	177.0	N/A	N/A	N/A	N/A	N/A
43-2454	43-2454	2.400 cfs	708.0 af	N/A	177.0	N/A	N/A	N/A	N/A	N/A
<b>COMBINED TOTALS</b>		<b>3.370 cfs</b>	<b>708.0 af</b>	<b>N/A</b>	<b>177.0</b>		<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

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 7th day of April, 2020

  
Southern Region Manager

**SUPPORT DATA**

**IN FILE # 43-2295K**

Transfer No. 83898

**WATER RIGHT NO. 43-2454****As Modified by Transfer No. 83898**

In accordance with the approval of Transfer No. 83898, Water Right No. 43-2454 is now described as follows:

**Right Holder:** ALAN J HARPER And  
BEVERLY K HARPER  
1978 S 2350 E  
MALTA, ID 83342-8645

**Priority Date:** 12/31/1956

**Source:** GROUND WATER

**BENEFICIAL USE**

IRRIGATION

**From**

03/15

to

**To**

11/15

**Diversion Rate**

2,400 cfs

2,400 cfs

**Diversion Volume**

708.0 af

708.0 af

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER

NWNE

Sec 7 Twp 14S Rge 27E CASSIA County

GROUND WATER

SENE

Sec 7 Twp 14S Rge 27E CASSIA County

**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	
14S	27E	6												40.0				19.0	59.0
14S	27E	7	39.0	39.0			40.0												118.0

POU Total Acres: 177.0

**CONDITIONS OF APPROVAL**

1. Rights 43-2454 and 43-2295K when combined shall not exceed a total annual maximum diversion volume of 708 af.
2. Rights 43-2295K, 43-2454, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001 and 43-13002 when combined shall not exceed a total diversion rate of 3.54 cfs.
3. Rights 43-2295K, 43-2454, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002 and 43-13003 when combined shall not exceed the irrigation of 177 acres.
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.143.

**WATER RIGHT NO. 43-2454**

**As Modified by Transfer No. 83898**

**CONDITIONS OF APPROVAL**

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.
6. 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 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.
7. 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.
8. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. 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.

**WATER RIGHT NO. 43-2295K****As Modified by Transfer No. 83898**

In accordance with the approval of Transfer No. 83898, Water Right No. 43-2295K is now described as follows:

**Right Holder:** ALAN J HARPER OR  
BEVERLY K HARPER  
1978 S 2350 E  
MALTA, ID 83342-8645

**Priority Date:** 3/5/1945

**Source:** GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.970 cfs	560.0 af
			0.970 cfs	560.0 af

**LOCATION OF POINT(S) OF DIVERSION**

GROUND WATER	NWNE	Sec 7 Twp 14S Rge 27E CASSIA County
GROUND WATER	SENE	Sec 7 Twp 14S Rge 27E 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	
14S	27E	6												40.0			19.0		59.0
14S	27E	7	39.0	39.0			40.0												118.0

Right Acre Limit: 140.0

POU Total Acres: 177.0

**CONDITIONS OF APPROVAL**

1. This right is limited to the irrigation of 140 acres within the authorized place of use in a single irrigation season.
2. Rights 43-2454 and 43-2295K when combined shall not exceed a total annual maximum diversion volume of 708 af.
3. Rights 43-2295K, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002 and 43-13003 when combined shall not exceed the irrigation of 140 acres.
4. Rights 43-2295K, 43-2454, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001 and 43-13002 when combined shall not exceed a total diversion rate of 3.54 cfs.
5. Rights 43-2295K, 43-2454, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002 and 43-13003 when combined shall not exceed the irrigation of 177 acres.

Transfer No. 83898

**WATER RIGHT NO. 43-2295K**  
**As Modified by Transfer No. 83898**

**CONDITIONS OF APPROVAL**

6. 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.143.
7. 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.
8. 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 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.
9. 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.
10. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.
11. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. 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.

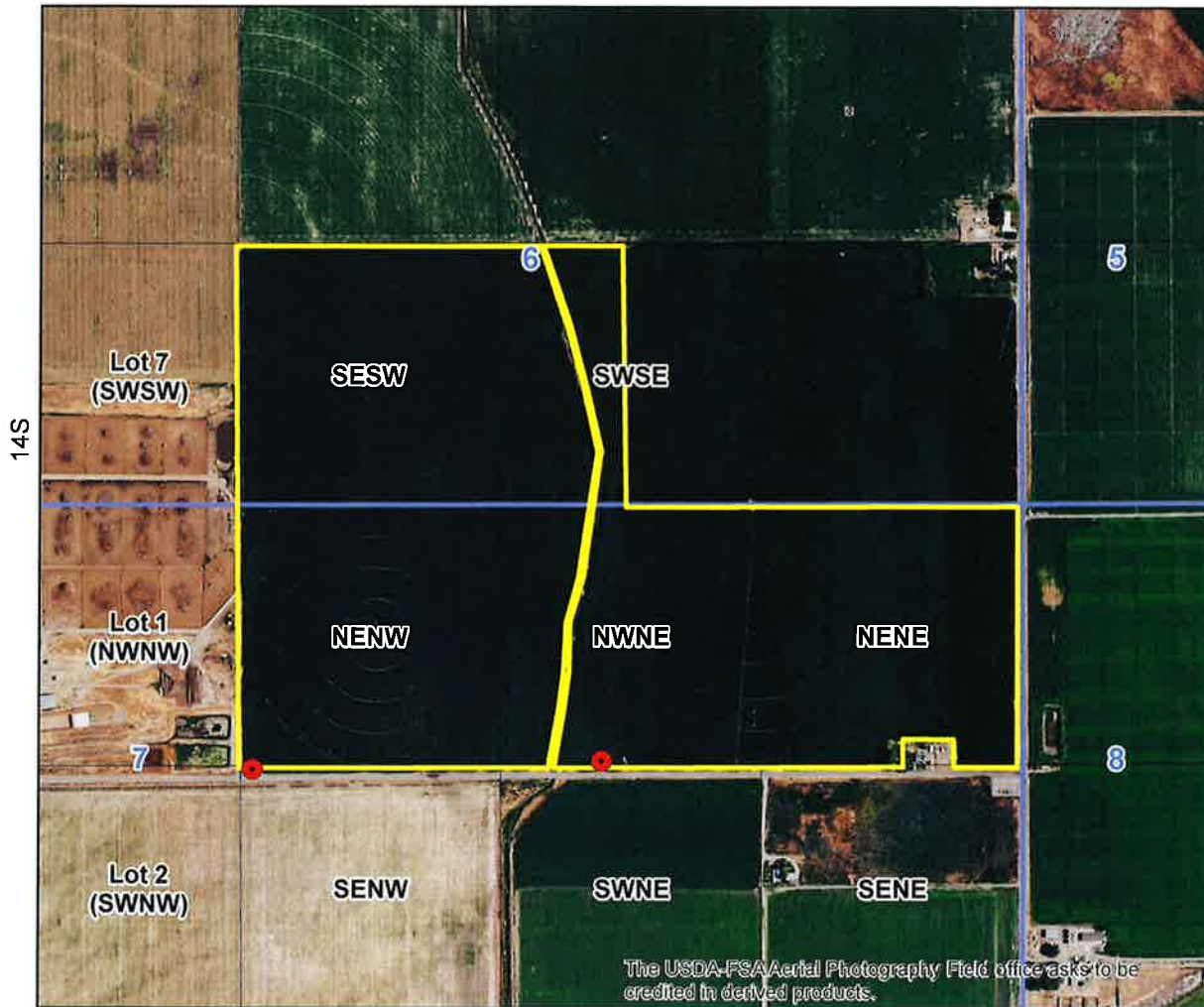
State of Idaho  
Department of Water Resources

# Attachment to Transfer # 83898

43-2454 & 43-2295K

This map depicts the IRRIGATION place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.

27E



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

0 0.1 0.2 0.4 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](http://www.idwr.idaho.gov) • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov)

**BRAD LITTLE**  
Governor

**GARY SPACKMAN**  
Director

April 8, 2020

ALAN J HARPER  
BEVERLY K HARPER  
1978 S 2350 E  
MALTA ID 83342-8645

Re: Transfer No: 83898  
Water Right No(s): 43-2295K , 43-2454

**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:

D L EVANS BANK  
PO BOX 87  
TWIN FALLS ID 83303-0087

US BANK NA  
C/O CGB AGRIFINANCIAL SERVICES INC  
2209 RIVER RD  
LOUISVILLE KY 40206-1009

WATER DISTRICT 143  
NATHAN ERICKSON  
650 ADDISON AVE W STE 500  
TWIN FALLS ID 83301-5858



## CERTIFICATE OF SERVICE

I hereby certify that on April 8, 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.: 83898

Water Right No(s): 43-2295K , 43-2454

ALAN J HARPER  
BEVERLY K HARPER  
1978 S 2350 E  
MALTA ID 83342-8645

D L EVANS BANK  
PO BOX 87  
TWIN FALLS ID 83303-0087

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C/O CGB AGRIFINANCIAL SERVICES INC  
2209 RIVER RD  
LOUISVILLE KY 40206-1009

WATER DISTRICT 143  
NATHAN ERICKSON  
650 ADDISON AVE W STE 500  
TWIN FALLS ID 83301-5858



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:** April 6, 2020  
**To:** Transfer #83898, Alan and Beverly Harper POD Transfer File  
**From:** Jim Bitzenburg  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application for transfer proposes to add a point of diversion (POD) to two ground water irrigation rights which are currently authorized to divert 3.37 cfs from one well. The new well will be located approximately 5.7 miles south and 1.4 miles east of Malta. After the transfer, the two ground water rights will be authorized to divert up to 3.37 cfs from two wells.

The transfer was advertised with no protests and Watermaster comments were sought from the Watermaster of WD-143, who had no objections to the transfer.

- **Authority to File:**  
IDWR records show the water rights are in the name of the applicants, Alan and Beverly Harper. The application was signed by the Harpers.
- **Water Right Validity:**  
Rights 43-2454 and 43-2295K were decreed in the SRBA. Recent aerial imagery appears to show sufficient irrigation so forfeiture is likely not an issue.
- **Injury to Other Water Rights:**  
None anticipated or foreseen. Irrigated acres and volumes will not increase.
- **Enlargement of Use:**  
None anticipated. This transfer is adding a point of diversion only.
- **Local Public Interest:**  
No issues anticipated. The application was advertised with no protests.
- **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.**

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:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES

650 ADDISON AVE W, STE 500  
TWIN FALLS ID 83301

ORDER NUMBER 99391

Ruby Aufderheide  
(Legals Clerk)

STATE OF IDAHO )  
                                  SS  
COUNTY OF TWIN FALLS )

On this 19th day of March 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.

Reba M Davis  
Notary Public FOR Idaho  
Residing at: Twin Falls, Idaho  
My Commission expires: 5/8/2020



Section: Legals

Category: 50 Legal

PUBLISHED ON: 03/12/2020, 03/19/2020

TOTAL AD COST: 84.66

FILED ON: 3/19/2020

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 83898**

ALAN J HARPER and BEVERLY K HARPER, 1978 S 2350 E, MALTA, ID 83342-8645; have filed Application No. 83898 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2295K, 43-2454; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>. 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 two ground water irrigation rights which are currently authorized to divert 3.37 cfs from one well. The new well will be located approximately 5.7 miles south and 1.4 miles east of Malta. After the transfer, the two ground water rights will be authorized to divert up to 3.37 cfs from two wells. 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 March 30, 2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

**PUBLISH:** March 12 and 19, 2020

**RECEIVED**  
**MAR 23 2020**  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

✓ DM 3/30/2020

State of Idaho  
Department of Water Resources

**RECOMMENDATION OF WATERMASTER**

Transfer No: 83898  
Water Right No: 43-2295K, etc.  
Applicant Name: ALAN J & BEVERLY K HARPER

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application
- b) ☐ I do not oppose approval of this application under the following terms:
- c) ☐ I oppose approval of this application(s) for the following reasons:
- d) ☐ Additional comment:

**Dated: March 16, 2020**

**Water District 143**

  
\_\_\_\_\_  
**Nathan Erickson, Watermaster**

# Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 99391

Publication	Times News		
Contact	ID DEPARTMENT OF WATER RESOURCES	PO Number	
Address 1	650 ADDISON AVE W, STE 500	Rate	Legal Notice
Address 2		Order Price	84.66
City St Zip	TWIN FALLS ID 83301	Amount Paid	0.00
Phone	2087363033	Amount Due	84.66
Fax			
Section	Legals	Start/End Dates	03/12/2020 - 03/19/2020
SubSection		Insertions	2
Category	50 Legal	Size	52
Ad Key	99391-1	Salesperson(s)	Ruby Aufderheide
Keywords	Transfer No 83898 Harper	Taken By	Ruby Aufderheide
Notes			

## Ad Proof

### NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 83898

ALAN J HARPER and BEVERLY K HARPER, 1978 S 2350 E, MALTA, ID 83342-8645; have filed Application No. 83898 for changes to the following water rights within CASSIA County(s): Right No(s). 43-2295K, 43-2454; to see a full description of these rights and the proposed transfer, please see <https://research.idwr.idaho.gov/apps/waterrights/querynewtransfers>.

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GARY SPACKMAN, Director

**PUBLISH:** March 12 and 19, 2020

**Proof of legal notice received  
from Times News 3/6/2020**

✓ AM 3/6/2020