

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT  
TRANSFER NO. 82988**

This is to certify that: LEVI SCHILDER  
RENAE SCHILDER  
1691 SHOESTRING RD  
GOODING, ID 83330-5235

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> |
|--------------------|---------------------|----------------------|-----------------------|-------------------------|-------------------|--------------------|---------------|
| 37-22306           | WR/DECREED          | 7/22/1971            | 0.060 cfs             | 24.0 af                 | N/A               | 6.0                | 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> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 37-22306              | NO           | YES        | 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> |
|------------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 37-22306               | 37-22306                         | 0.060 cfs            | 24.0 af                | N/A               | 6.0                | N/A                                | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>COMBINED TOTALS</b> |                                  | <b>0.060 cfs</b>     | <b>24.0 af</b>         | <b>N/A</b>        | <b>6.0</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 26<sup>th</sup> day of March, 2019.

  
Southern Region Manager

**WATER RIGHT NO. 37-22306**  
**As Modified by Transfer No. 82988**

In accordance with the approval of Transfer No. 82988, Water Right No. 37-22306 is now described as follows:

**Right Holder:** RENAE SCHILDER AND  
 LEVI SCHILDER  
 1691 SHOESTRING RD  
 GOODING, ID 83330-5235

**Priority Date:** 7/22/1971

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Diversion Volume</u> |
|-----------------------|-------------|-----------|-----------------------|-------------------------|
| IRRIGATION            | 04/15       | to 10/15  | 0.060 cfs             | 24.0 af                 |
|                       |             |           | 0.060 cfs             | 24.0 af                 |

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

GROUND WATER                      SWNW                      Sec 27 Twp 06S Rge 14E GOODING 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 |        |
| 06S | 14E | 27  |    |    |    |    |    |    | 6.0 |    |    |    |    |    |    |    |    |    | 6.0    |

POU Total Acres:                      6.0

**CONDITIONS OF APPROVAL**

1. 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. 130.
2. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
3. Prior to the diversion and use of water under Transfer approval 82988, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
4. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.

Transfer No.        82988

**WATER RIGHT NO. 37-22306**  
**As Modified by Transfer No. 82988**

**CONDITIONS OF APPROVAL**

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.
6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/15 and an ending date of 11/15, provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/15 and after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than 12/11/2002.
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 # 82988**  
37-22306

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.

14E



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

0 0.035 0.07 0.14 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

March 27, 2019

LEVI SCHILDER  
RENAE SCHILDER  
1691 SHOESTRING RD  
GOODING ID 83330-5235

Re: Transfer No: 82988  
Water Right No(s): 37-22306

### 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.

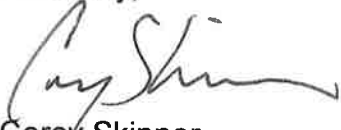
ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and 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 black ink, appearing to read "Corey Skinner", written over a light blue horizontal line.

Corey Skinner  
Regional Manager

Enclosure

## CERTIFICATE OF SERVICE

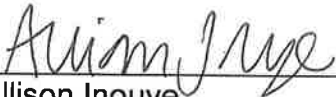
I hereby certify that on March 27, 2019 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 82988  
Water Right No(s): 37-22306

LEVI SCHILDER  
RENAE SCHILDER  
1691 SHOESTRING RD  
GOODING ID 83330-5235

WATER DISTRICT 130  
NATHAN ERICKSON (Watermaster)  
650 ADDISON AVE W STE 500  
TWIN FALLS ID 83301-5858

*via hand delivery*

  
\_\_\_\_\_  
Allison Inouye  
Water Resource Agent, Senior

## **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.

## Sufficiency Memorandum

**Date:** March 21, 2019  
**To:** Transfer #82988, Schilder.  
**From:** Benny Walker  
**Re:** Evaluation of Sufficiency of Information Submitted

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Application for transfer proposes to change the point of diversion (POD) and place of use (POU) for a ground water irrigation right for 0.06 cfs and the irrigation of 6.0 acres. The current POD and POU are located approximately 4.8-5.0 miles south and 4.7-5.0 miles west of the City of Gooding. The proposed new POD and POU are located approximately 4.3-4.5 miles south and 3.8-4.0 miles west of the City of Gooding.

The points of diversion and place of use involved with the application are located within Water District 130 so watermaster comments were solicited.

A model analysis is not required since the points of diversions involved in the transfer are within adjacent model cells.

Application was subject to notice and protest. No protest were received.

- **Authority to File:**  
The applicant currently owns water right 37-22306 to be transferred.
- **Water Right Validity:**  
Water right 37-22306 was decreed in 2002. The current water right owner submitted photos of the property being irrigated in 2018.
- **Injury to Other Water Rights:**  
None anticipated. The amount of water being transferred, 0.06 cfs is less than an inch to the acre.
- **Enlargement of Use:**  
None anticipated. The proposed place of use will be limited to the 6 acres allowed by the water right.
- **Local Public Interest:**  
No negative impacts anticipated. Application was subject to notice and protest. No protest were received. Watermaster comments were solicited and the watermaster did not oppose the approval of this application.
- **Beneficial Use/Conservation of Water Resources:**  
Proposed uses are recognized as beneficial uses of water
- **Effect on Economy of the Local Area:**  
None 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.**

State of Idaho  
Department of Water Resources

**RECOMMENDATION OF WATERMASTER**

Transfer No: 82988  
Water Right No: 37-22306  
Applicant Name: Levi & Renae Schilder

**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:

Owner should have flow meter installed and working prior to irrigation.

**Dated: March 20, 2019**

**Water District 130**

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

## MEMORANDUM

**Date:** March 18, 2019  
**To:** Nathan Erickson (Transfer #82988)  
**From:** Benny Walker  
**Re:** Additional Information for your review

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Per your request, enclosed are the map showing the current POU and proposed POU involved with this transfer, as well as photos from Gary Miller (current water right owner) documenting irrigation of the current POU in 2018.



37-22306

2018



**Irrigation**



**Sprinklers**



37-22306

2018



37-22306

2018



Irrigation



**\*\* 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:

2 Insertions

**ID DEPARTMENT OF WATER RESOURCES**

650 ADDISON AVE W, STE 500  
TWIN FALLS ID 83301

ORDER NUMBER 81183

Ruby Aufderheide  
(Legals Clerk)

STATE OF IDAHO )  
                          SS  
COUNTY OF TWIN FALLS )

On this 4 day of March in the year of 2019 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.

Miriam King  
Notary Public FOR Idaho  
Residing at: Twin Falls, Idaho  
My Commission expires: 5.10.22

Section: Legals  
Category: 50 Legal

PUBLISHED ON: 02/21/2019, 02/28/2019

TOTAL AD COST: 139.95  
FILED ON: 3/4/2019



**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 82988**

LEVI SCHILDER and RENAE SCHILDER, 1691 SHOESTRING RD, GOODING, ID 83330-5235; has filed Application No. 82988 for changes to the following water rights within GOODING County(s): Right No(s): 37-22306. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the point of diversion (POD) and place of use (POU) for a ground water irrigation right for 0.06 cfs and the irrigation of 6.0 acres. The current POD and POU are located approximately 4.8 to 5.0 miles south and 4.7 to 5.0 miles west of the City of Gooding. The proposed new POD and POU are located approximately 4.3 to 4.5 miles south and 3.8 to 4.0 miles west of the City of Gooding.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT  
TRANSFER NO. 82876**

LEROY ROBINSON, PO BOX 486, ALBION, ID 83311; has filed Application No. 82876 for changes to the following water rights within CASSIA County(s): Right No(s): 45-13429, 45-2296. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to transfer a 0.09 cfs and 6.0 acre portion of a ground water irrigation right from a parcel located approximately 0.5 to 0.6 miles south and 0.25 to 0.5 miles east of Albion. This water right will be moved to a farm, located approximately 0.25 to 0.75 miles south and 0.5 to 1.0 miles east of Albion. Also a portion of the existing water right located at the proposed place of use will be shifted to include the transferred 6.0 acres. This will create a 131 acre permissible place of use and a total diversion of 1.34 cfs for both water rights diverted from an existing well located on the proposed place of use.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see [research.idwr.idaho.gov/apps/waterrights/Query-NewTransfers](http://research.idwr.idaho.gov/apps/waterrights/Query-NewTransfers). 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 11, 2019. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH: February 21 and 28, 2019

RECEIVED

MAR 11 2019

DEPT OF WATER RESOURCES

OK AJ 3/20/19