

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82195**

This is to certify that: **BRET ROBINS FARMS INC**
273 W 400 S
BURLEY, ID 83318

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>
45-2604	WR/DECREED	2/23/1960	3.120 cfs	1092.0 af	273.0	446.0	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>
45-2604	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>
45-2604	45-2604	3.120 cfs	1092.0 af	273.0	446.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.120 cfs	1092.0 af	273.0	446.0		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 20th day of April, 2018.



Southern Region Manager

WATER RIGHT NO. 45-2604**As Modified by Transfer No. 82195**

In accordance with the approval of Transfer No. 82195, Water Right No. 45-2604 is now described as follows:

Right Holder: BRET ROBINS FARMS INC
273 W 400 S
BURLEY, ID 83318

Priority Date: 2/23/1960

Source: GROUND WATER

BENEFICIAL USE

IRRIGATION

From 03/15 **to** 11/15

Diversion Rate

3.120 cfs
3.120 cfs

Diversion Volume

1092.0 af
1092.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER
GROUND WATER

SENE SW
SENE SW

Sec 22 Twp 11S Rge 22E CASSIA County
Sec 22 Twp 11S Rge 22E 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	
11S	22E	22			40.0				40.0	40.0	40.0	40.0	39.0	39.0	40.0	40.0	38.0	37.0	433.0
11S	22E	23										13.0							13.0

Right Acre Limit: 273.0

POU Total Acres: 446.0

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 273 acres within the authorized place of use in a single irrigation season.
2. This right is limited to the irrigation of a specific 273 acres within the 446 acre place of use authorized by this right in a single irrigation season. The specific 273 acres to be irrigated by the right holder are shown in the electronic shape file associated with this right in the geographic information system component of the water rights database maintained by the department. Before changing the 273 acres to be irrigated within the 446 acre place of use, the right holder shall submit a new land list and representative electronic shape file or map to the Department prior to the irrigation season in which the change will occur.
3. 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.

WATER RIGHT NO. 45-2604

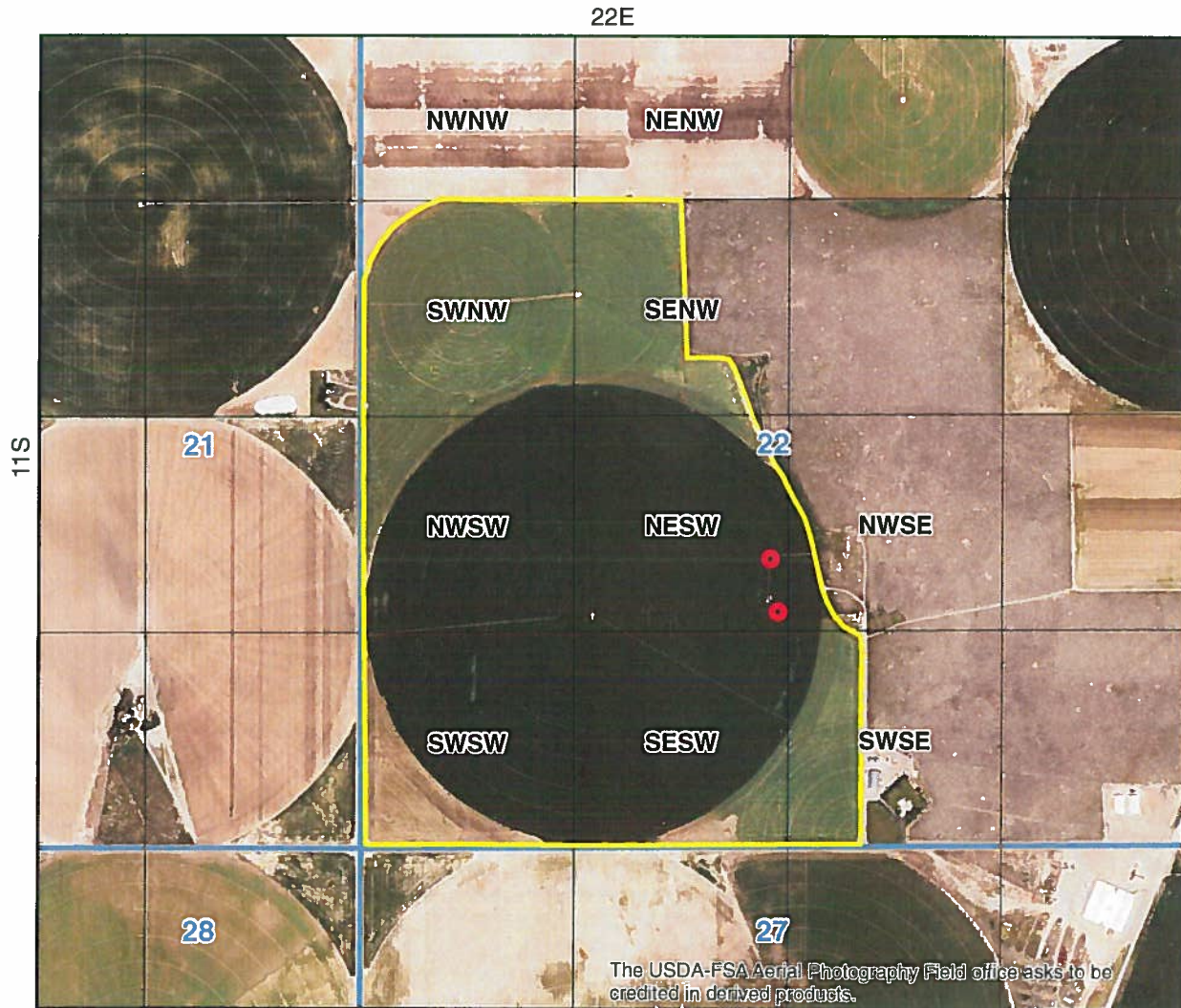
As Modified by Transfer No. 82195

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 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. Prior to the diversion and use of water under Transfer approval 82195, 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.
7. 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.
8. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, 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 # 82195
45-2604

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

0 0.125 0.25 0.5 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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 23, 2018

BRET ROBINS FARMS INC
273 W 400 S
BURLEY ID 83318

Re: Transfer No: 82195
- Water Right No(s): 45-2604

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". The signature is fluid and cursive, with the first name "Corey" written in a larger, more prominent script than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

cc:

WATER DISTRICT 140
BRIAN HIGGS
355 W 500 S
BURLEY ID 83318-5229

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2018 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.: 82195
Water Right No(s): 45-2604

BRET ROBINS FARMS INC
273 W 400 S
BURLEY ID 83318

WATER DISTRICT 140 *via e-mail*
BRIAN HIGGS
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: April 11, 2018
To: Transfer 82195
From: Allison Inouye
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to add an existing well as an authorized point of diversion (POD) to water right 45-2604 which allows the diversion of 3.12 cfs for irrigation of 273 acres. The proposed POD is located in the same ¼ ¼ section as the currently authorized POD. The proposed POD lies within the ESPA; however it is within the same model grid cell as the current POD so no model analysis is required. The PODs and place of use (POU) are located approximately 2.9 - 4 miles west and 5.6 – 6.4 miles south of the center of Burley. The PODs and POU are located within Water District 140 and watermaster comments were solicited.

- **Authority to File**
The application is filed in the name of Bret Robins Farms Inc, the owner of the water right being transferred per IDWR records. Information from the IDSOS website indicates that the individual who signed the application can sign on behalf of the organization.
- **Water Right Validity**
Water right 45-2604 was decreed in the SRBA in 2005. Recent aerial imagery indicates that the properties involved with this transfer appear irrigated. WMIS flow meter data from the current point of diversion indicates that the well is actively used.
- **Injury to Other Water Rights**
None anticipated. The proposed POD is an existing well located in the same ¼ ¼ section as the currently authorized POD.
- **Enlargement of Use**
None anticipated. Water right 45-2604 will remain limited to 273 acres after the transfer. The applicant provided a 206 map indicating the specific 273 acres that are irrigated within the permissible place of use. The water right will be subject to Water District 140 measurement requirements.
- **Local Public Interest**
No issues anticipated. Application was subject to public notice. No protests were received.
- **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 on 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:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES
650 ADDISON AVE W, STE 500
TWIN FALLS, ID 83301

ORDER NUMBER 63796

Ruby Aufderheide

(Legals Clerk)

STATE OF IDAHO)
 .SS
COUNTY OF TWIN FALLS)

On this 22 day of March in the year of 2018 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

PUBLISHED ON: 03/15/2018, 03/22/2018

TOTAL AD COST: 81.75

FILED ON: 3/22/2018

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 82195**

BRET ROBINS FARMS INC, 273 W 400 S, BURLEY, ID 83318; has filed Application No. 82195 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2604; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/ppsr_ueryNewTransfers_uery-NewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to add an existing well as an authorized point of diversion (POD) to a ground water right which allows the diversion of 3.12 cfs for irrigation of 273 acres. The PODs and place of use are located approximately 2.9 to 4 miles west and 5.6 to 6.4 miles south of the center of Burley.

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 **April 2, 2018**. The protestant must also send a copy of the protest to the applicant.

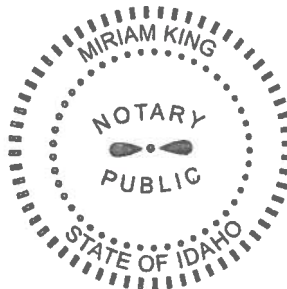
GARY SPACKMAN, Director
Published on March 15th & 22nd, 2018

✓ OK SM 3/30/2018

RECEIVED

MAR 26 2018

DEPT OF WATER RESOURCES
SOUTHERN REGION



Customer Ad Proof

60002276 ID DEPARTMENT OF WATER RESOURCES

Order Nbr 63796

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	81.75
City St Zip	TWIN FALLS ID 83301	Amount Paid	0.00
Phone	2087363033	Amount Due	81.75
Fax			
Section	Legals	Start/End Dates	03/15/2018 - 03/22/2018
SubSection		Insertions	2
Category	50 Legal	Size	50
Ad Key	63796-1	Salesperson(s)	Ruby Aufderheide
Keywords	Bret Robins Farms Inc	Taken By	Ruby Aufderheide
Notes			

Ad Proof

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GARY SPACKMAN, Director
Published on March 15th & 22nd, 2018

Proof of legal notice received

from Times News 3/10/2018

✓ OK DM 3/12/2018

E-mail sent to newspaper.