

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 45-14482

Priority: August 30, 2016

Maximum Diversion Volume: 3.4 AF

This is to certify, that KURT CATMULL
PO BOX 131
ALBION ID 83311

And/Or

TERRIL CATMULL
PO BOX 131
ALBION ID 83311

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	3.4 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L1 (NE1/4NE1/4) Sec. 6, Twp 12S, Rge 25E, B.M.
CASSIA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
12S	25E	6	X																
			L1																

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2017**.
2. Subject to all prior water rights.
3. Use of water under this right will 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.

State of Idaho
Department of Water Resources**Permit to Appropriate Water**

NO. 45-14482

4. To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water rights for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the rights, or portion thereof, are being dedicated to mitigation by non-use. The mitigating right may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use Irrigation	Mitigation Acres
45-4274		0.5

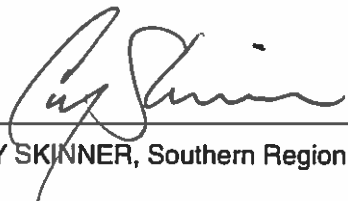
The land that will no longer be irrigated under this right is located within Government Lot 1 (NENE), Section 06, Township 12S, Range 25E, B.M.

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.

5. Right 45-14482 authorizes total annual storage volume of 3.4 acre-feet, 2.0 acre-feet to be used for the initial filling or carryover storage of the pond, and 1.4 acre-feet for the replacement of losses caused by evaporation.
6. The pond established by the storage of water under this right shall not exceed a total capacity of 2.0 acre-feet or a total surface area of 0.5 acre(s).
7. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
8. Use of water pursuant to this right is either nonconsumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right. Regulation of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required.

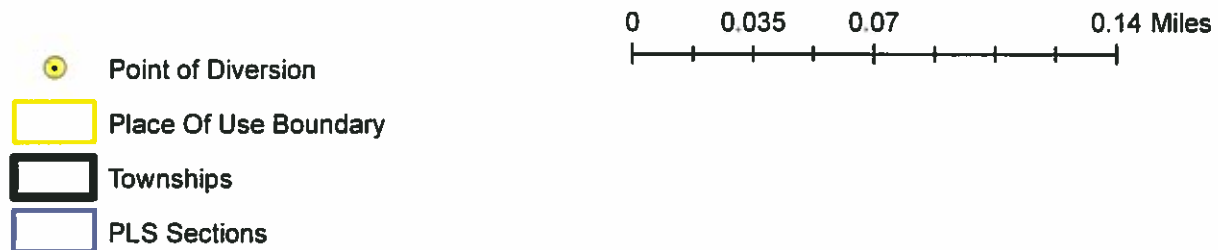
This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 6th day of October, 2016.


COREY SKINNER, Southern Region Manager

State of Idaho
Department of Water Resources
Attachment to Permit to Appropriate Water
45-14482

This map depicts the AESTHETIC STORAGE 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.





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 7, 2016

KURT CATMULL
TERRIL CATMULL
PO BOX 131
ALBION ID 83311

RE: Permit No. 45-14482

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 a party 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.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Please note that pursuant to the approval of 45-14482, the official water right record for 45-4274 has been changed accordingly to reflect the mitigation components.

Also, 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(s)

cc: BRIAN HIGGS, WATER MASTER

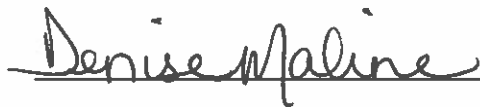
CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 45-14482

**KURT CATMULL
TERRIL CATMULL
PO BOX 131
ALBION ID 83311**

**BRIAN HIGGS WATER MASTER *via e-mail*
WATER DISTRICT 140
355 W 500 S
BURLEY ID 83318**

A handwritten signature in cursive script that reads "Denise Maline". The signature is written in dark ink and is positioned above a solid horizontal line that extends to the right.

**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.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 45-4274

10/6/2016

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KURT CATMULL PO BOX 131 ALBION, ID 83311 (208) 670-2101
Current Owner	TERRIL CATMULL PO BOX 131 ALBION, ID 83311 (208) 670-2101
Original Owner	DAWNEE GOODMAN PO BOX 62 ALBION, ID 83311 (208)673-6217
Original Owner	CLYDE L GOODMAN PO BOX 62 ALBION, ID 83311 (208)673-6217

Priority Date: 4/1/1935

Basis: Decreed

Status: Active

Source
UNNAMED STREAM

Tributary
MARSH CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/01	10/31	0.120 CFS	
MITIGATION BY NON-USE	04/01	10/31	0.010 CFS	
	<u>Total Diversion</u>		0.130 CFS	

Source and Point(s) of Diversion

UNNAMED STREAM	L1(SWNENE)	Sec. 6, Twp 12S, Rge 25E, CASSIA County
UNNAMED STREAM	L1(SWNENE)	Sec. 6, Twp 12S, Rge 25E, CASSIA County

Place Of Use

MITIGATION BY NON-USE within CASSIA County

			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	X L1																

IRRIGATION within CASSIA County

			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	6.0 L1																6.0

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right 45-4274

10/6/2016

POU Total Acres: 6.0

Conditions of Approval:

1. S47 The use of water for irrigation under this right may begin as early as March 15 provided other elements of the right are not exceeded. The use of water before April 1 under this remark is subordinate to all water rights having no subordinated early irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. 193 This right mitigates for the depletion of water resulting from the diversion and use of water under Right 45-14482. To prevent injury to other water right holders, the right holder shall cease diverting 0.01 cfs of this right from unnamed springs and the irrigation of 0.5 acres within the place of use. If the mitigation portion of this right is used for any purpose, then water shall not be diverted under Right 45-14482. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 45-14482 that are being mitigated shall be reduced by the same proportion as the reduction to this right.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Comments:

1. bwalker 10/6/2016 POU
Updated Shape
2. bwalker 10/6/2016 Mitigation by Non Use Update
On this date, a 0.01 cfs and 0.5 acre portion of the irrigation use was changed to "mitigation by non use" as part of the proposed mitigation plan associated with application for permit 45-14482 (approved this same day).

Dates and Other Information

Decreed Date: 5/6/2005
Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: Or
Water District Number: 45F
Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A

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

SEP 28 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

2 Insertions

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

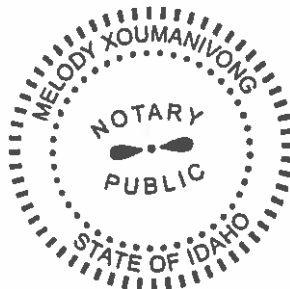
ORDER NUMBER 32057

Ruby Aufderheide
(Legals Clerk)

STATE OF IDAHO)
 .SS
COUNTY OF TWIN FALLS)

On this 22nd day of September in the year of 2016 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.

Melody M
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 9/21/2017



PUBLISHED ON: 09/15/2016, 09/22/2016

TOTAL AD COST: 262.17
FILED ON: 9/22/2016

✓ OK DM 10/3/2016

RECEIVED

SEP 28 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

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

✓
45-14482
KURT CATMULL
TERRIL CATMULL
PO BOX 131
ALBION, ID 83311
Point of Diversion L1(NENE) S6 T12S R25E CASSIA County
Source GROUND WATER Tributary
Use: AESTHETIC STORAGE 01/01 to 12/31 3.4 AF
Total Diversion: 3.4 AF
Date Filed: 8/30/2016
Place Of Use: AESTHETIC STORAGE
T12S R25E S6 L1(NENE)
Application proposes appropriating 3.4 acre feet of ground water for aesthetic use associated with an existing pond located north of Marsh Creek approximately 0.2 miles east of Albion City Park.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 80972**

✓
RAY ROBINSON, 506 E 500 S, BURLEY, ID 83318; has filed Application No. 80972 for changes to the following water rights within CASSIA County(s): Right No(s). 45-280, 45-295, 45-322, 45-7288, 45-7349. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to create a 431.0 acre permissible place of use (PPU) for two ground water rights and three Howell Creek water rights that allow for the total combined diversion of 10.04 cfs and the irrigation of 431.0 acres. The proposed PPU is located approximately 0.9 to 1.9 miles east and 0.8 miles north to 0.7 miles south of the center of the City of Albion (Main and Market streets). In addition, the transfer proposes changing the three currently authorized points of diversion for the three Howell Creek rights to a single point of diversion location on Howell Creek. The currently authorized Howell Creek points of diversion are located approximately 0.3 miles north and 1.9 miles east; 0.47 miles south and 1.3 miles east; and 2.6 miles south and 1.8 miles east of the center of the City of Albion. The new proposed point of diversion is an existing Howell Creek diversion located approximately 0.5 miles south and 2.0 miles east of the center of the City of Albion and will be used to divert up to 4.8 cfs

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81125**

✓
ALBION 12 INVESTMENTS LLC and ROSE CREEK RANCH LLC, 7595 E MC DONALD DR STE 130, SCOTTSDALE, AZ 85250; has filed Application No. 81125 for changes to the following water rights within CASSIA County(s): Right No(s). 45-13589, 45-14449, 45-14450, 45-14451, 45-14452, 45-236, 45-240, 45-246B, 45-259, 45-275, 45-284B, 45-285, 45-285A, 45-287, 45-290, 45-291, 45-327D, 45-517D, 45-518, 45-519, 45-523A, 45-528, 45-706, 45-707. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes the creation of a 1699.2 acre irrigation Permissible Place of Use (PPU) for 23 surface water rights and 1 ground water right which currently irrigate 1131.7 acres on ground located approximately 1.2 to 3.2 miles south and 0.4 to 2.4 miles east of the intersection of Market and Main Streets in Albion. The rights are currently irrigating ground on two separate farms and this transfer will consolidate the rights into a single PPU encompassing the two farms. One group of 11 rights currently irrigates 399.2 acres with a 4.33 cfs flow rate on Albion 12 Investments, LLC ground, and the other group currently irrigates 732.5 acres with a flow rate of 21.08 cfs on Rose Creek Ranch, LLC ground. After the transfer, 1131.7 acres will be irrigated within the proposed 1699.2 acre PPU.

The transfer also proposes to add a new point of diversion (POD) to an Albion 12 Investments, LLC waste water right, and add one existing Albion 12 Investments, LLC POD to four of the Rose Creek Ranch, LLC Howell Creek rights. These new points of diversion will be located within the proposed place of use.

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 www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. For additional information on new permits, please see www.idwr.idaho.gov/WaterManagement/WaterRights/#NewListings. 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 together with a protest fee of \$25.00 for each application on or before October 3, 2016. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
PUBLISH: September 15 and 22, 2016

✓ OK DM 10/3/2016

Maline, Denise

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Monday, September 19, 2016 9:22 AM
To: Maline, Denise
Subject: Re: Comment letters for T# 80972 (Robinson); T# 81125 (Albion 12 & Rose Creek Ranch); and 45-14482 (Catmull)

Hi Denise.

I reviewed the transfers below and have no comment on any of them.

Thank you.

Brian

From: [Maline, Denise](#)
Sent: Friday, September 09, 2016 9:13 AM
To: [Brian Higgs](#)
Subject: Comment letters for T# 80972 (Robinson); T# 81125 (Albion 12 & Rose Creek Ranch); and 45-14482 (Catmull)

Good morning Brian,

Attached are copies of the (3) applications referenced above, which are currently being processed. Please review the information and provide any necessary comments within 21 days.

Thank you in advance & have a great weekend,

Denise @ IDWR

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov