

OCT 04 2016

DEPT OF WATER RESOURCES  
SOUTHERN REGION



## Marsh Creek Water District 45F

September 30, 2016

1047 E 1000 S  
Albion, Idaho 83311

State of Idaho  
Department of Water Resources  
Attn: Denise Maline  
Administrative Assistant  
Southern Region  
650 Addison Ave W. Suite 500  
Twin Falls, Idaho 83301-5858

Re: Transfer No. 80972, Water Right No(s). 45-280, 45-295, 45-322, 45-7288, 45-7349

Dear Denise,

I have reviewed the documentation pertaining to the above reference transfer(s) 80972 dealing with water Right's 45-322 and the additional 45-280, 295. As I have indicated on the Recommendation Form, I have a problem with the POD transfer. Therefore, I disapprove the transfer at this time.

- ❖ Page 9 (f) To your knowledge, has/is any portion of the water rights(s) proposed to be changed:
  - [Yes] First line item.... Undergone a period of five or more consecutive years of none-use [surface water right(s) 45-322, 45-280 and 45-295; In fact some 24 years. As the Water master of MCWD45-F in 1995, when I came on board, I gave Ray Robinson a call indicating 45-322 was in jeopardy. He was into five years, its final year of none use, if not called he would lose it due to "non- beneficial use. He made his call and I delivered water beneficially for 24 hours from the Howell Creek (Halard POD (12S25ES16SESW)) existing POD. The water was never called for again. As for the other two Surface Water Rights 45-280, 295, I have never deliver water nor was it called for. Rays resource for water was his 'Ground Water Rights' 45-7288, 45-7349 using Pivots and Hand-lines.
  - If this POD is approved, Ray Robinson would be injuring many of the Users that have been receiving water that was not used, over all those years. This would jeopardize a total 4.80cfs, in-effect up to 20 other water rights if I have the water to deliver.
    - See MCWD45F rotation schedule by Water Right Priority Date.
    - Then again, if Ray Robinson would agree to change the Priority date of the right(s) to reflect a later date that would not conflict with the current Users, I would have no problems with the transfer.

- ❖ The other concern I have is the combining of both party's water! Do I only bill the party(s) separately pending on what flow that is being received through the POD!

Respectively submitted,

*Don G. Gunderson*

Donald G. Gunderson, Watermaster  
Marsh Creek Water District 45F  
[gundy@safelink.net](mailto:gundy@safelink.net)

***Enclosure(s):***

***Cover Letter***

***Recommendation Form***

***Water Right disclosure 80972***

***Attached PDF File (emailed)***

***Two (2) pages,***

***Howell Creek Adj-Cross-Refr.***

***Map***

via E-mail  
RECEIVED

OCT 04 2016

DEPT OF WATER RESOURCES  
SOUTHERN REGION

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

Transfer Application No.: 80972

Water Right No(s): 45-280, 45-295, 45-322, 45-7288,  
45-7349

Transfer Applicant's Name: RAY ROBINSON  
506 E 500 S  
BURLEY, ID 83318

Water Master's 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) X I oppose approval of this application for the following reasons:

*Please review my cover letter on my view  
of the POD Transfer of 80972*

- d) V Additional comments:

*If the cover letter has created questions  
in addition to what I posted. Please Contact  
me.*

Dated this 23rd day of September, 2016

Water District No. 45F



Water Master's Signature

DONALD G. GANDERSON

Printed Name

JUN 03 2016

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

Transfer No. 80972

DEPT OF WATER RESOURCES  
SOUTHERN REGION**MINIMUM REQUIREMENTS CHECKLIST**  
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER**RECEIVED**

AUG 26 2016

An application for transfer must be prepared in accordance with the minimum requirements listed below to be accepted for transfer to the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Name of Applicant(s) RAY ROBINSONCheck whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.Yes N/A \*Means the item is always required and must be included with the application.

- ☒ \* Completed Application for Transfer of Water Right form, Part 1.
- ☒ \* Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ \* Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☒ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application
- ☒ \* Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ \* Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

**Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.**

- ☐ ☒ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☒ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner.
- ☐ ☒ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s).
- ☐ ☒ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☒ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☒ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☒ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ \* #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☒ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☒ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.)
- ☒ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: \_\_\_\_\_

DM

Received 10/4/2016 with Rec. of  
Water Master from WD45F  
(6 pgs - part of app.)

RECEIVED

AUG 26 2016

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 03 2016

DEPT OF WATER RESOURCES  
SOUTHERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1DEPT OF WATER RESOURCES  
SOUTHERN REGIONName of Applicant RAY ROBINSONPhone (208)678-3813Mailing Address 506 E 500 S, BURLEY ID 83318

Email \_\_\_\_\_

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it Attachment #1.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it Attachment #2a.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it Attachment #2b.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it Attachment #3.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☒ No Representative

Name of Representative \_\_\_\_\_

Phone \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email \_\_\_\_\_

☐ Send all correspondence for this application to the representative and not to the applicant.

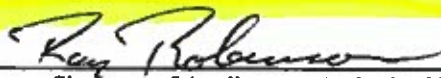
OR

☐ Send original correspondence to the applicant and copies to the representative.☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.

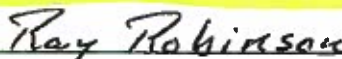
OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it Attachment #4.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.



Signature of Applicant or Authorized Representative



Print Name and Title if applicable

6 3 16

Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

## A. PURPOSE OF TRANSFER

| 1. | Right   | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|----|---------|-------|-----|-----|---------|---------------|---------------|
|    | 45-280  | No    | Yes | Yes | No      | No            | No            |
|    | 45-295  | No    | Yes | Yes | No      | No            | No            |
|    | 45-322  | No    | Yes | Yes | No      | No            | No            |
|    | 45-7288 | No    | No  | Yes | No      | No            | No            |
|    | 45-7349 | No    | No  | Yes | No      | No            | No            |

APPLICATION FOR TRANSFER OF WATER RIGHT  
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future

Diversion from creek to pond with pump pressurizing sprinkler system. Measuring device is installed

- b. Who owns the property at the point(s) of diversion

Applicants brother LeRoy Robinson owns point of diversion on Howell Creek

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

Shared point of diversion

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?  
No, ☐ If Yes, ☒

Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it Attachment #6. List the name of the entity and type of lien: Northwest Farm Credit.

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

Applicant is creating a permissible place of use.

- e. Describe the use of any other water right(s) for the same purpose or land, or same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

Ground water rights and surface water rights are included in this transfer

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes  
☐  
☐  
☐  
☐

No  
☒  
☒  
☒  
☒

undergone a period of five or more consecutive years of non-use,  
currently leased to the Water Supply Bank,  
currently used in a mitigation plan limiting the use of water under the right, or  
currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe: No

*As the water master the surface water discharged from  
Herald Lateral has not been used since 1995 my 1st  
year as watermaster.*

|                            |                                    |                                                   |           |            |                          |                             |                |
|----------------------------|------------------------------------|---------------------------------------------------|-----------|------------|--------------------------|-----------------------------|----------------|
| 7/17/2001                  | Original Rpt Gen Date              | MARSH CREEK WATER DISTRICT 45F                    |           |            |                          | 6/5/2012                    | priority Dte   |
| 3/1/2008                   | (updated materials)                | Snake River Basin Adj.                            |           |            |                          | Rpt Print Dte: 6/22/2016    |                |
| 7/1/2006                   | SRBA Initial Date                  | District Court Order (pursuant Ch 6, Title 42)    |           |            |                          | (Original Docu were Stokes) |                |
| Howell Creek Channel       | Last modification to Rpt 3/5/2012  | Order Granting State Of Idaho's Motion of Int Adr |           |            |                          | (verses Woods)              |                |
| Original                   |                                    | Wtr                                               | Wtr/Right |            |                          |                             |                |
| Decreed SRBA               | Present Owner or                   | Right                                             | Priority  | Decreed    |                          | Water Right                 |                |
| Wtr/Right:                 | Renter:                            | Inch:                                             | CFS:      | Date:      | Owner (s):               | Identifacation Number:      |                |
| 45-284 A                   | Hawker, Fred (.67)                 | 38.5                                              |           | 04/01/1875 | Wm. STOKES               | R T12s-R25E-S21 (swne)      |                |
| 284 C                      | Clark, Grant                       | 21.5                                              | 1.1       |            |                          | R Same                      |                |
| 284 B                      | Albion Ranch 2006 LLC              | 79                                                | 1.58      |            |                          | T12s-R25E-S21/16            |                |
|                            | (R=Rotation)                       |                                                   | 2.88      |            |                          |                             |                |
| 45-280 A                   | Goodman, Helen est.                | 35                                                | 0.7       | 03/31/1876 | M.A. Harroun             | T12s-R25E-S04               |                |
| 45-280                     | Chatburn, Jeff & Tam               | 35                                                | 0.7       | 03/31/1876 | M.A. Harroun             | T12s-R25E-S04               |                |
| 45-11008 was 45-273        | Chatburn, Jeff & Tam               | 70                                                | 1.4       |            | S.J. Nutt                | T12s-R25E-S04               |                |
| 45-274 "not included"      | Chatburn, Bathla/Jeff              | 15-                                               | 0.3       |            | E.A. Nutt                | Same                        |                |
| 45-319                     | Brackenbury, G./Randy              | 100                                               | 2         | 05/01/1877 | Geo. V. Brim 33.32 2.0 # | T12s-R25E-S07               | deleting point |
| 45-320 B                   | Kempton, Jim                       | 50                                                | 1         |            | W.F. Brim 16.67 1.0 #    | T12s-R25E-S08 (nesw/nws)    |                |
| 45-320 A                   | Bell, Leo/David                    | 50                                                | 1         |            | 16.67 1.1 #              | Same (swsw/sasw)            |                |
| 45-321 A                   | Bell, Leo/David (Hager)            | 87.5                                              | 1.75      |            | 29.17 1. #               | T12s-R25E-S18               |                |
| 45-321 B                   | Droz's, Ina                        | 12.5                                              | 0.25      |            | 4.17 0. #                | Same                        |                |
|                            |                                    |                                                   |           |            |                          |                             |                |
| 45-322                     | Robinson, Ray                      | 160                                               | 3.2       | 03/01/1878 | Wm. R. Holmes            | T12s-R25E-S05               |                |
| 45-285 A                   | Mahoney, Larry Blk Jack Rch        | 15                                                | 0.3       | 04/01/1878 | Wm. Stokes               | T12s-R25E-S20/21            |                |
| 45-285                     | Albion Ranch 2006 LLC              | 15                                                | 0.3       |            |                          | Same                        |                |
| 45-1410 (was 160"/3.20cfs) | Chatburn Brothers INC (was 45-323) | 33                                                | 0.66      | 10/13/1878 | Isaac Potter             | T11s-R25E-S33               |                |
| 45-14108                   | Smart-Mickelson (Marsh Subdiv.)#1  | 32                                                | 0.64      |            | Isaac Potter             |                             |                |
| 45-14297                   | Parker & Hallett LLC               | 32.5                                              | 0.65      |            | Isaac Potter             | T12s-R25E-                  |                |
| 45-324 A                   | Jolley, Lee/Marijane               | 20                                                | 0.4       |            | Geo. H. Weldon           | T11s-R25E-S32               |                |
| Was a Stokes vs Woods      | Skagg's, Sam 6SRanch               |                                                   |           |            |                          | Same                        |                |
| Was a Stokes vs Woods      | Robinson, Ray                      |                                                   |           |            |                          | Same                        |                |
| 45-325                     | Kelley, George & Bill              | 90                                                | 1.8       | 07/01/1879 | Jonas Chatburn           | T11s-R25E-S28               |                |
| 45-286                     | Clark, Grant (Neyman)              | 60                                                | 1.2       | 09/01/1880 | E.J. Stokes              | R T12s-R25E-S21             | (.1956cfs)     |
|                            | 16.30% To Albion Ranch=.1956cfs    | 50                                                | 1         |            |                          |                             |                |
| 45-286 A                   | Hawker, Fred                       | 20                                                | 0.4       |            |                          | R Same                      |                |
| 45-328                     | Goodman Ranch LLC                  | 61                                                | 1.22      | 12/01/1880 | Mahala Wright            | T12s-R25E-S04/05/09         |                |
| 45-326 A                   | Chatburn, Jeff & Tam               | 39                                                | 0.78      |            |                          |                             |                |
| 45-327 C                   | Bell, Leo & Meria                  | 37.5                                              | 0.75      | 03/01/1881 | James Mahoney            | T12s-R25E-S16               |                |
| 45-327 E                   | Warthen, Earl                      | 62.5                                              | 1.25      |            |                          | Same                        |                |

|                                                                                                                            |                              |                                                          |           |              |                      |                               |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------------------------|-----------|--------------|----------------------|-------------------------------|
| 45-327 D                                                                                                                   | Alblon Ranch 2006 LLC        | 35                                                       | 0.7       |              |                      | Same                          |
| 45-327 (LR not registered)                                                                                                 | ??????                       | 12.5-                                                    |           |              |                      | Same                          |
| 45-328 (LR not registered)                                                                                                 | Skagg's, Sam 6SRanch         | 160                                                      | 3.2       | 03/10/1881   | James W. Snodgrass   | T11s-R25E-S29/32              |
| 7/17/2001                                                                                                                  | Original Rpt Gen Date        | MARSH CREEK WATER DISTRICT 45F                           |           |              |                      |                               |
| 3/1/2008                                                                                                                   | (updated materials)          | Snake River Basin Adjudication                           |           |              |                      |                               |
| 7/1/2006                                                                                                                   | SRBA Initial Date            | District Court Order (persuant Ch 6, Title 42)           |           |              |                      |                               |
| <u>Howell Creek Channel</u>                                                                                                |                              | <u>Order Granting State Of Idaho's Motion of Int Adm</u> |           |              |                      |                               |
|                                                                                                                            |                              | Wtr/Right                                                |           |              |                      |                               |
| Decreed                                                                                                                    | Present Owner or             |                                                          | Wtr/R     | Priority     | Decreed              | Water Right                   |
| <u>Wtr/Right:</u>                                                                                                          | <u>Renter:</u>               | <u>Inch:</u>                                             | <u>CF</u> | <u>Date:</u> | <u>Owner (s):</u>    | <u>Identifacation Number:</u> |
| 45-292 (LR not registered)                                                                                                 | Mahoney, Larry               | 12                                                       | 0.24      | 03/31/1881   | B.F. Mahoney         | T12s-R25E-S16                 |
| 45-280                                                                                                                     | Robinson, Ray                | 70                                                       | 1.4       | 04/30/1881   | L. Gardner/W. Morris | T11s-R25E-S33                 |
| 45-290                                                                                                                     | Mahoney, Larry Blk Jack Rch  | 26.5                                                     | 0.53      | 05/31/1881   | B.F. Mahoney         | T12s-R25E-S09                 |
| 45-290 A                                                                                                                   | Dayley, Norman               | 13.5                                                     | 0.27      |              |                      |                               |
| 45-293                                                                                                                     | Smyer, Bennie                | 25                                                       | 0.5       | 03/01/1882   | Dora Quin            | T12s-R25E-S15                 |
| 45-299                                                                                                                     | Dayley, Norman               | 25                                                       | 0.5       | 03/31/1882   | George Gordon        | T12s-R25E-S09                 |
| 45-300                                                                                                                     | Mathews, Mike/Bailey Bernice | 20                                                       | 0.4       |              | E.D. McCoy           | Same                          |
| 45-279 (LR not registered)                                                                                                 | Bell, Lao/David              | 20-                                                      | 0.4       | 06/01/1882   | Joseph, Holbrook     | Same                          |
| 45-295                                                                                                                     | Robinson, Ray                | 10                                                       | 0.2       | 03/21/1883   | Thomas Walton        | T12s-R25E-S05/08              |
| 45-291                                                                                                                     | Mahoney, Larry Blk Jaack Rch | 25                                                       | 0.5       | 05/01/1884   | Margret Mahoney      | T12s-R25E-S09                 |
| 45-320 (LR not registered)                                                                                                 | Kempton, Jim                 | 6-                                                       | 0.12      | 07/31/1886   | N.A. Dickey          | T12s-R25E-S08                 |
| <u>Proposed Surface Water Rights (Ray Robinson)</u>                                                                        |                              |                                                          |           |              |                      |                               |
| Note: All Water Rights dated 4/12/1892 and older are considered "HIGHWATER" but is chargeable if available and called for. |                              |                                                          |           |              |                      |                               |

