

Via E-mail
RECEIVED

APR 22 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION



Marsh Creek Water District 45F

1047 E 1000 S

Albion, Idaho 83311

April 18, 2016

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: Amended Transfer No. 79943, Water Right No. 45-14284

Dear Denise,

I have reviewed the documentation pertaining to the above reference amended transfer 79943 and Water Right 45-14284. As I have indicated on the Original Recommendation Form dated May 19, 2015, I oppose the approval of this Amended transfer. Nothing has changed except for the location of the wells.

As long as I have been the watermaster of Water District 45F, I have seen no Beneficial Use of said ground water. The Montgomery surface water right when it is discontinued for the irrigation season, I have seen no supplemental water for irrigation after shut off.

I am unaware of two Irrigation Wells POD's as indicated on the map that was submitted with the documentation.

The Montgomery's are at the mercy of "Mother Nature" for moisture, as the rest of the surface water users when there is no water available for their decreed date.

It will be noted since Lake Cleveland was brought into the transfer, I have entered the following.

There has been a couple of times that I have delivered water from Lake Cleveland to Marsh Creek and the best estimated measurement which was shared with the Woody Anderson Ranch was 1.16cfs total between the two parties at the entry of Marsh Creek. At the Lake Cleveland POD, 4.8cfs was released back in 1994 or 1995.

Respectively submitted,

Don G. Gunderson

Donald G. Gunderson, Water Master 45F

Marsh Creek Water District 45F

gundy@safelink.net

Enclosure(s):

Recommendation Form

Attachment A1:

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

RECEIVED

APR 22 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

AMENDED Transfer Application No.: 79943

Water Right No(s): 45-14284

Transfer Applicant's Name: ALBION 12 INVESTMENTS LLC
7595 E MC DONALD DR, STE 130
SCOTTSDALE, AZ 85250

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:
*See the attached Comments on Cover Letter
and Attachment A/-*

d) E Additional comments:
Attachment A/-

Dated this 19 day of April, 2016

Water District No. 45F



Water Master's Signature



Printed Name

APR 22 2016

DEPT OF WATER RESOURCES
SOUTHERN REGION

Attachment A1:

Watermaster's additional opposing remarks of Amended Water Transfer No. 79943; Re: Water Right 45-14284

1. The Application for Transfer states: "To your knowledge, has the water right(s) proposed to be changed undergone a period of five or more consecutive years of non-use?" The answer is checked "No". [Re: Application for Transfer, Part 1, Section 5, Paragraph g.]
 - **Questionable Issue:** *As Water District 45F Watermaster, I have not observed a beneficial use of the 45-14284 Water Right for a period exceeding five years. This period of time also exceeds the Water Right Decree date of 4/07/2010 by more than five years.*
2. Water Right 45-14284 is decreed as being a supplemental right combined with Water Rights 45-14288, 45-14286 and 45-10912 to irrigate a maximum of 67.0 acres. The Albion 12 application states that Water Right 45-14284 is to be transferred with the full 67.0 acres attached. [Re: Application for Transfer, Part 3, Section C.] The Application further states "There will be no expansion of the acres of irrigation,..." [Re: Application for Transfer, Part 3, Section C.]
 - **Questionable Issue:** *There is an expansion of acres irrigated if 67 acres (or any amount of acres) remain with Water Rights 45-14288, 45-14-286 and 45-10912. The unsigned terms of the Water Right Transfer between George Montgomery and Albion 12 state: "Transfer shall not take place if it impacts the Surface Water Rights of George Montgomery if the transfer is approved." Under any circumstance, the transfer of 67 acres to Albion 12 directly contradicts Water Right 45-14284 beneficial use condition 6. (X35) if any beneficial use is still intended by George Montgomery for Water Rights 45-14288, 45-10912 and 45-14286.*
3. Notes on the Map of Amended Transfer POD,s indicate proposed wells being drilled "...within 500 feet of Howell Creek POD".
 - **Questionable Issue:** *The proximity of POD,s is understandable from applicants point of view, but the term "within 500 feet" seems to mean from streambed POD out to 500 feet. What keeps drilling out of the Howell Creek riparian area? Although drilling in a stream riparian area is apparently not prohibited, it is no coincidence that the proposed wells are on either side of Howell Creek and apparently in close proximity to the stream. Any loss of subsurface water below and adjacent to the streambed may introduce downstream water loss to currently appropriated water right holders.*
4. The Application Map of Amendment Transfer indicates two Albion 12 points of diversion (wells) in the transfer of the single point of diversion (well) for George Montgomery Water Right 45-14284.
 - **Questionable Issue:** *For purposes of Watermaster oversight, a second point of diversion should be established only if the first point of diversion serves a secondary beneficial use or because the first point of diversion provides insufficient water to meet the decreed (transferred) right. In the second case, flow meters need to be installed for verification of combined annual acre feet. However, this is properly a Water District 140 Watermaster call.*

**AMENDED
TRANSFER 79943**



**MAP OF AMENDED TRANSFER PODs
ALBION 12 INVESTMENTS
NAIP 2015 AERIAL**

N
0 600 1,200 2,200 Feet
BROCKWAY ENGINEERING, PLLC.
FEB 29, 2016

Legend

- AMENDED TRANSFER PODS
- ORIGINAL TRANSFER PODS
- MONTGOMERY PODS
- ALBION 12 PPU