

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 79902**

This is to certify that: **KARLA ROBINSON AND
LEROY ROBINSON
1170 E 810 S
ALBION, ID 83311**

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>
45-13428	WR/DECREED	5/27/1977	0.310 cfs	70.0 af	N/A	20.0	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>
45-13428	NO	YES	NO	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>
45-13428	45-13428	0.310 cfs	70.0 af	N/A	20.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.310 cfs	70.0 af	N/A	20.0		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 16th day of June, 2015.


Southern Region Manager

WATER RIGHT NO. 45-13428

As Modified by Transfer No. 79902

In accordance with the approval of Transfer No. 79902, Water Right No. 45-13428 is now described as follows:

Right Holder: LEROY ROBINSON AND
KARLA L ROBINSON
1170 E 810 S
ALBION, ID 83311

Priority Date: 5/27/1977

Source: GROUND WATER

BENEFICIAL USE
IRRIGATION

From 03/15 **To** 11/15

Diversion Rate
0.310 cfs
0.310 cfs

Diversion Volume
70.0 af
70.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER NESE Sec 6 Twp 12S Rge 25E 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	
12S	25E	6													20.0				20.0

POU Total Acres: 20.0

CONDITIONS OF APPROVAL

1. Rights 45-13428, and 45-13463 when combined shall not exceed the irrigation of 20 acres.
2. 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.
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.
4. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
5. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

WATER RIGHT NO. 45-13428

As Modified by Transfer No. 79902

CONDITIONS OF APPROVAL

6. 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 may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.



State of Idaho
Department of Water Resources
Attachment To Transfer No. 79902
Right: 45-13428

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
- Quarter Quarters

0 0.0375 0.075 0.15 Miles





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

June 16, 2015

LEROY ROBINSON
KARLA ROBINSON
1170 E 810 S
ALBION ID 83311

Re: Transfer No: 79902
Water Right No(s): 45-13428

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 "Allen Merritt". The signature is stylized with a large, sweeping initial "A" and a cursive "Merritt".

Allen Merritt
Southern Regional Manager

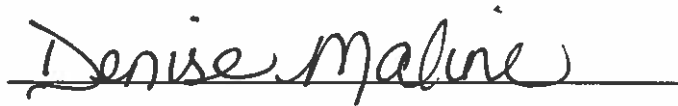
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2015 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

Re: Transfer No.: 79902
Water Right No(s): 4 5-13428

LEROY ROBINSON
KARLA ROBINSON
1170 E 810 S
ALBION ID 83311

A handwritten signature in cursive script, reading "Denise Maline", is written over a solid horizontal line.

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.



State of Idaho

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 16, 2015

BRIAN HIGGS WATERMASTER
WATER DISTRICT # 140
355 W 500 S
BURLEY, ID 83318

Via e-mail

Re: **APPROVED Transfer No. 79902 (Leroy & Karla Robinson)**

Dear Mr. Higgs:

For your information and records, we have enclosed a copy of an APPROVED Application for Transfer within your District.

If you have any questions, please contact this office, or the applicant.

Sincerely,

A handwritten signature in black ink that reads "Denise Maline". The signature is written in a cursive, flowing style.

Denise Maline
Administrative Assistant

Enclosure

RECEIVED

MAY 18 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

Affidavit of Publication
STATE OF IDAHO)
COUNTY OF TWIN FALLS) SS.

I, Janet Cranney, being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily at, Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive weeks, commencing with the issue dated 7th day of May, 2015 and ending with the issue dated 14th day of May, 2015

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho to be issued thereof Thursday is announced as the day on which said legal will be published.

Janet Cranney
Janet Cranney, Legal Clerk

STATE OF IDAHO
COUNTY OF TWIN FALLS

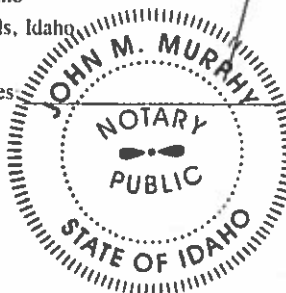
On this 14th day of May, 2015, before me,

~~Joyce Engleman~~ *John Murphy*
a Notary Public, personally appeared Janet Cranney,

known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho
Residing at Twin Falls, Idaho

My commission expires



✓ OK DM
5/21/2015

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

✓ 1-10632

NORTH SNAKE GROUND WATER DISTRICT

152 E MAIN ST

JEROME, ID 83338

Point of Diversion SESE S22 T10S R21E JEROME County

Source SNAKE RIVER Tributary COLUMBIA RIVER

Point of Diversion L5(SWNW) S28 T10S R21E JEROME County

Source SNAKE RIVER Tributary COLUMBIA RIVER

Point of Diversion L5(SWSWNW) S28 T10S R21E JEROME

County Source SNAKE RIVER Tributary COLUMBIA RIVER

Use: IRRIGATION 04/01 to 10/31 200 CFS

Total Diversion: 200 CFS

Date Filed: 2/17/2015

Place Of Use: IRRIGATION

Place of Use located within the service area of the North Snake Ground Water District, within portions of Jerome, Lincoln and Gooding counties.

Application proposes diverting up to 200 cfs from the Snake River, upstream from Milner Dam, at two North Side Canal Company diversions and the Milner-Gooding Canal diversion. Water will be used for irrigation of up to 16,000 acres of land located within the service area of the North Snake Ground Water District located in portions of Jerome, Lincoln and Gooding counties. Application proposes using natural flow when available for soft conversions. In lieu of groundwater currently used to irrigate the 16,000 acres. Ground water will continue to be used on those 16,000 acres when the requested flows are not available. Published in Times News, Idaho Statesman, Post Register & Lewiston Tribune on May 7th & 14th, 2015

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 79902

✓ LEROY ROBINSON and KARLA ROBINSON, 1170 E 810 S, ALBION, ID 83311; has filed Application No. 79902 for changes to the following water rights within CASSIA County(s): Right No (s). 45-13428. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the point of diversion for a ground water irrigation right currently diverted from a well located approximately 0.5 miles south and 0.1 miles east of the center of the City of Albion (Main and Market streets) to a new well to be drilled. The proposed new point of diversion is located approximately 0.3 miles south and 0.4 miles east of the center of the City of Albion. The proposed point of diversion will be used to divert up to 0.31 cfs for irrigation of 20 acres at the existing place of use.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 79943

✓ ALBION 12 INVESTMENTS LLC, 7595 E MC DONALD DR STE 130, SCOTTSDALE, AZ 85250; has filed Application No. 79943 for changes to the following water rights within CASSIA County (s): Right No(s). 45-14284. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use and add three new points of diversion to ground water right 45-14284 (1.31 cfs), which currently supplements three surface water rights (45-14288, 45-14286, and 45-10912) on 67.0 acres of farm ground located approximately 0.8 to 1.3 miles west and 0.7 to 1.2 miles south of the intersection of Main and Market Streets in Albion. The new place of use will be on farm ground located approximately 1.4 to 2.4 miles east and 1.8 to 3.2 miles south of Albion, supplementing surface water right 45-284B (1.50 cfs, 90.0 acres), which is within a 399.2 acre permissible place of use. Right 45-14284 is currently diverted from two wells located approximately 1.3 miles west and 1.1 miles south of Albion. The proposed transfer will relocate the points of diversion to three new wells located approximately 1.7 miles east and 2.6 miles south; 1.7 miles east and 2.9 miles south; and 1.9 miles east and 2.9 miles south of Albion.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 80034

✓ IDAHO WATER CO LLC, 1135 VALLEY RD S, EDEN, ID 83325; has filed Application No. 80034 for changes to the following water rights within JEROME County(s): Right No(s). 36-2117, 36-2594. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes transferring a 9.7 acre (0.19 cfs) portion of two ground water irrigation rights currently used on a farm located approximately 5.0 miles south of Hazelton to provide additional water at an existing dairy operation located approximately 0.75 to 1.0 miles north and 5.25 to 5.5 miles west of Paul. The transferred rights (0.19 cfs and 30 AFA) will be diverted from two existing wells located at the dairy site.

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 May 26, 2015. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on May 7th and 14th, 2015

✓ OK DM
5/21/2015

Maline, Denise

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Tuesday, May 05, 2015 4:44 PM
To: Maline, Denise
Cc: William A Parsons; Jaxon Higgs
Subject: Re: Comment Letters for Transfers 79902 & 79943

Hi Denise.

I have no comment on transfer #79902.

Transfer #79943 has not been brought forward in good faith. The statements in the application do not represent the facts observed on the ground.

1.A.2 "The new water right..."

1.5.g The box "undergone a period of five or more consecutive years of non-use" is checked.

3.C "There will be no expansion of the acres of irrigation ..."

For verification of these facts see WMIS for these wells.

WMIS number 1000407. Site visit comments state:

"7/2/2014 No longer a well at this gps location"

"7/8/2011 No well, pumps, or electrical improvements observed."

Also see WMIS number 1000166 which is the second well listed as a POD.

"6/30/2012 ... runs a drip system for a few trees... runs the house below..."

One well of the 2 POD's listed does not exist. The small submersible pump in the second well used for the house, that delivers a drip system for a few trees from a spigot, cannot deliver irrigation water for 1 acre nor 67 acres. Obviously, if the surface water was not sufficient the groundwater right was not utilized.

The applicants statement concerning the availability of surface water at the new POD being greater is misleading. There may be more surface water available at the new POD, however, the groundwater was never used at the original POD. In a letter included in the application package, dated 3/26/2015 from G. Erick Powell, to Allen Merritt it states, "transferring of this right...will not cause an expansion of the ground water over historical use." If groundwater has not been historically used an expansion of groundwater use will occur.

In the memorandum dated 4/28/2015 from Jim Bitzenburg, under the statement "Injury to Other Water Rights" Mr. Bitzenburg states, "Information supplied with the application appears to indicate that the right will be used less in the proposed place of use." This is impossible if the right was never used at the old place of use.

The argument that the well was partially decreed in 2010 does not preclude that the fact that use of groundwater from this well is an increase and an expansion of groundwater in the already severely stressed Marsh Creek drainage. The Montgomery's never used this supplemental right while the Albion 12 Investments, a growing and expanding property, infers intentions to use the groundwater every instance surface water is insufficient. That is an expansion.

Thank you.

Brian