

RECEIVEDSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78303

APR 16 2014

MINIMUM REQUIREMENTS CHECKLISTDEPT. OF WATER RESOURCES
SOUTHERN REGION**TO BE SUBMITTED WITH APPLICATION FOR TRANSFER**

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by 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) CHRIS DRAKOS;**Check 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: _____

AMENDED

APR 16 2014

DEPT. OF WATER RESOURCES
SOUTHERN REGIONAPPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Name of Applicant CHRIS DRAKOS Phone (208) 678-2688
Mailing Address PO BOX 793, BLACKFOOT ID 83221 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 JOHN M MARSHALL Phone (208) 991-2701
Mailing Address JOHN MARSHALL LAW PLLC
575 W BANNOCK ST STE B, BOISE ID 83702 Email john@jmarshalllaw.com

- ☐ 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.

 John Marshall, attorney 4-14-2014
Signature of Applicant or Authorized Representative Print Name and Title if applicable 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
45-2644A	No	No	No	Yes	No	No	No
45-2644B	No	No	No	Yes	Yes	No	No

Associated Right(s): 45-2601 , 45-2641

APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 Continued

2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**

Application filed to add a point of diversion to right 45-2644B. This new well, limited to a total diversion of 4.0 cfs, was approved in transfer # 78168 involving rights 45-2601 and 45-2641. In addition, the transfer will modify the place of use of rights 45-2644A and 45-2644B slightly to match the place of use of other rights (45-2601 and 45-2641) used in Section 5.

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT TO A SEPARATE SYSTEM, DESCRIBE PORTIONS TO BE CHANGED TO A SEPARATE SYSTEM AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1. Detailed Water Right Description(s) Attached labeled Part 1.

Summary of Water Rights After the Approved Change

Transferred Right (All or Part)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	Original Right (Remaining Portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
45-2644A	0.420 cfs	N/A	N/A	639.0		N/A	N/A	N/A	N/A
45-2644B	1.090 cfs	N/A	N/A	639.0		N/A	N/A	N/A	N/A
COMBINED TOTALS	1.510 cfs	N/A	N/A	639.0		N/A	N/A	N/A	N/A

2. Total amount of water proposed to be transferred or changed 1.51 cubic feet per second and/or _____ acre-feet per annum

3. Points(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☒ As shown in Part 1.
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

4. Place of Use:

- ☐ No changes to place of use are proposed. (Proceed to #5.)
- ☒ As shown in Part 1.
- ☐ See Attachment.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes**

Proposed Water Right No. 45-2644A

Current Water Right Owner

CHRIS DRAKOS
PO BOX 793
BLACKFOOT, ID 83221

Priority Date: 3/6/1961

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.420 CFS	
Total Diversion			0.420 CFS	

Source and Point(s) of Diversion:

GROUND WATER	SWNE	Sec. 11 Twp 12S Rge 22E CASSIA County
GROUND WATER	SWNW	Sec. 12 Twp 12S Rge 22E CASSIA County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	23E	5	40.0	40.0	40.0	40.0	41.0	41.0	39.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	39.0	639.0
			L 1	L 2			L 3	L 4											

POU Total Acres: 639.0

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Transfer Right After Requested Changes

Proposed Water Right No. 45-2644B

Current Water Right Owner

CHRIS DRAKOS
 PO BOX 793
 BLACKFOOT, ID 83221

Priority Date: 7/11/1962

Origin: Water Right

Basis: Decreed

Status Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.090 CFS	
Total Diversion			1.090 CFS	

Source and Point(s) of Diversion:

GROUND WATER	L4(NWNWNW)	Sec. 5 Twp 12S Rge 23E	CASSIA County
GROUND WATER	SWSWSW	Sec. 5 Twp 12S Rge 23E	CASSIA County
GROUND WATER	SWSWSW	Sec. 5 Twp 12S Rge 23E	CASSIA County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	23E	5	40.0	40.0	40.0	40.0	41.0	41.0	39.0	40.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	39.0	639.0
			L 1	L 2			L 3	L 4											

POU Total Acres: 639.0

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

Three wells in section 5 and two wells in section 11 and 12 are used to irrigate land in section 5.

Measuring devices and lockable works will be installed as required.

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

Applicant

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

- 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:

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:

No actual change. Proposed change in place of use is a slight acre adjustment to reflect actual current irrigation practice(s).

- 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:

Rights 45-2601, 45-2641, 45-2644A, and 45-2644B are used to irrigate the land in Section 5

- 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:

**IDaho DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 45-2644A

Current Water Right Owner
CHRIS DRAKOS
PO BOX 793
BLACKFOOT, ID 83221

Priority Date: 3/6/1961

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	0.420 CFS	
Total Diversion			0.420 CFS	

Source and Point(s) of Diversion:

GROUND WATER	SWNE	Sec. 11 Twp 12S Rge 22E CASSIA County
GROUND WATER	SWNW	Sec. 12 Twp 12S 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	
12S	23E	5	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	639.0

POU Total Acres: 639.0

Conditions/Remarks:

1. 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.
2. This right is a split from former right 45-2644.
3. Right Nos. 45-2601, 45-2641, 45-2644A and 45-2644B are limited to a total combined annual diversion volume of 2556 AF.
4. Right Nos. 45-2601, 45-2641, 45-2644A and 45-2644B are limited to the irrigation of a combined total of 639 acres in a single irrigation season.

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No. 45-2644B

Current Water Right Owner

CHRIS DRAKOS
PO BOX 793
BLACKFOOT, ID 83221

Priority Date: 7/11/1962

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Subuse Code</u>
IRRIGATION	03/15	11/15	1.090 CFS	
Total Diversion			1.090 CFS	

Source and Point(s) of Diversion:

GROUND WATER	SWSW	Sec. 5 Twp 12S Rge 23E CASSIA County
GROUND WATER	SWSW	Sec. 5 Twp 12S Rge 23E CASSIA County

Describe the proposed diversion system

Wells (depth unknown) pressurize water into a piping system that supplies water to handlines and center pivots.

Wells (depth unknown) pressurize water into a piping system that supplies water to handlines and center pivots.

Place of Use: IRRIGATION

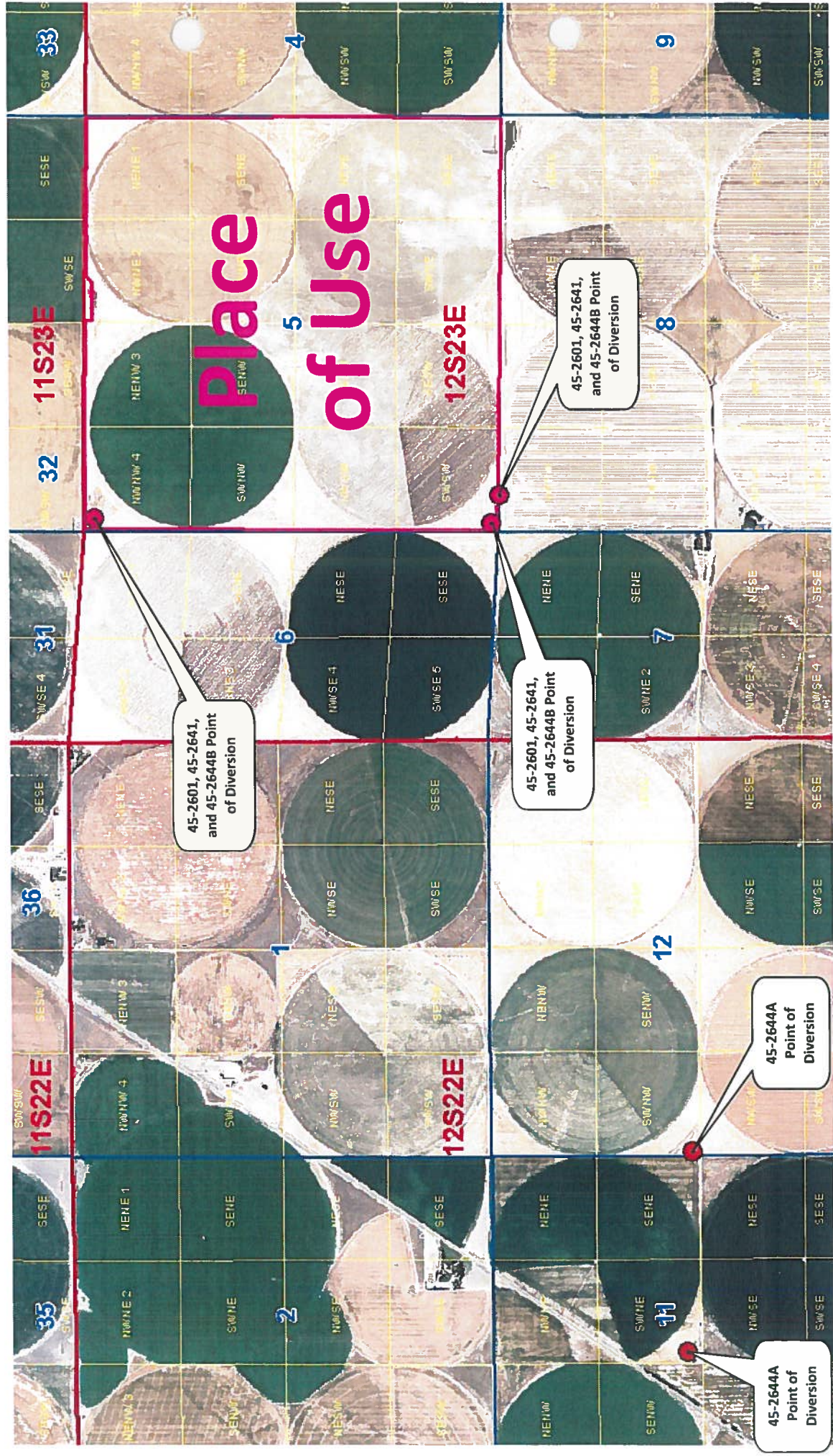
Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	23E	5	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	639.0

POU Total Acres: 639.0

Conditions/Remarks:

1. 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.
2. This right is a split from former right 45-2644.
3. Right Nos. 45-2601, 45-2641, 45-2644A and 45-2644B are limited to a total combined annual diversion volume of 2556 AF.
4. Right Nos. 45-2601, 45-2641, 45-2644A and 45-2644B are limited to the irrigation of a combined total of 639 acres in a single irrigation season.

Transfer # 78303 Point of Diversion and Place of Use Map



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned hereby nominate John M. Marshall, whose address is 575 W. Bannock, Suite B, Boise, Idaho 83702 as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all matters related to water right applications pertaining to the undersigned's farming operation and feedlot located in Cassia County, Idaho. Such acts shall include, but not be limited to, the filing of applications, receiving of all notices, the signing and filing of applications for extension of time and for amendments of said applications.

Dated this 8 day of July 2012 August 2012

Chris Drakos

Chris Drakos, on behalf of himself, Lambert Produce Co. Inc., Montana Brand Produce Co. Inc. and Double C Farms

Cory King

Cory King, on behalf of himself and Double C Farms

STATE OF IDAHO)

County of Cassia)ss

On this 9 day of August 2012, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Christy King

237 E 1100 S

Notary Public residing at

Burley, ID 83318

SEAL

My commission expires: 11/12/2016

RECEIVED

OCT 10 2012

DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

☐ Change diversion point(s)☒ Add diversion point(s)☒ Ownership change1. APPLICANT(S) Chris DrakosPhone 208-678-26882. MAILING ADDRESS PO Box 793City BlackfootState IdahoZip 83221

Email _____

☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.☒ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) required for water right ownership changes; see fee schedule.☒ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.3. LIST WATER RIGHT NUMBER(S) 45-264445-2644☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.4. TOTAL AMOUNT OF WATER transferred is 4.0 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
12S	23E	5		SW	SW	SW	Cassia	Ground water	
12S	23E	5		SW	SW	SW	Cassia	Ground water	
12S	23E	5		NW	NW	NW	Cassia	Ground water	

6. 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:

Wells, pumps and pipelines as shown on attached map. Control and measurement can easily be installed at or near the well heads.

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

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

- c. 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(s), or

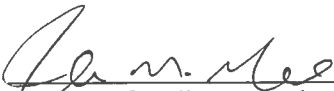
☐☒

currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe _____

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and 1/4 1/4 of section information. The *Map Tool*, available at <http://maps.idwr.idaho.gov/TransferApplicationLayouts/> provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.



Signature of applicant or authorized agent

John Marshall

Print name and title if applicable

10/9/2012

Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by

P. SKINNER

Date

10/10/2012

Fee paid

\$200.00

Date

10/10/2012

Received by

P. SKINNER

Receipt #

5032841

Preliminary review completed by _____

Date _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 45-2844

Current Owner: ORE-IDA FOODS INC

Priority Date: 3/8/1961

Origin: Water Right

Status: Active

Basis: License

Source

Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	6 CFS	2556 AF
	Total Diversion	6 CFS	2556 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4NE1/4	Sec. 11,	Twp 12S,	Rge 22E B.M.
CASSIA County				
GROUND WATER	SW1/4NW1/4	Sec. 12,	Twp 12S,	Rge 22E B.M.
CASSIA County				

Place of Use

IRRIGATION Within CASSIA County

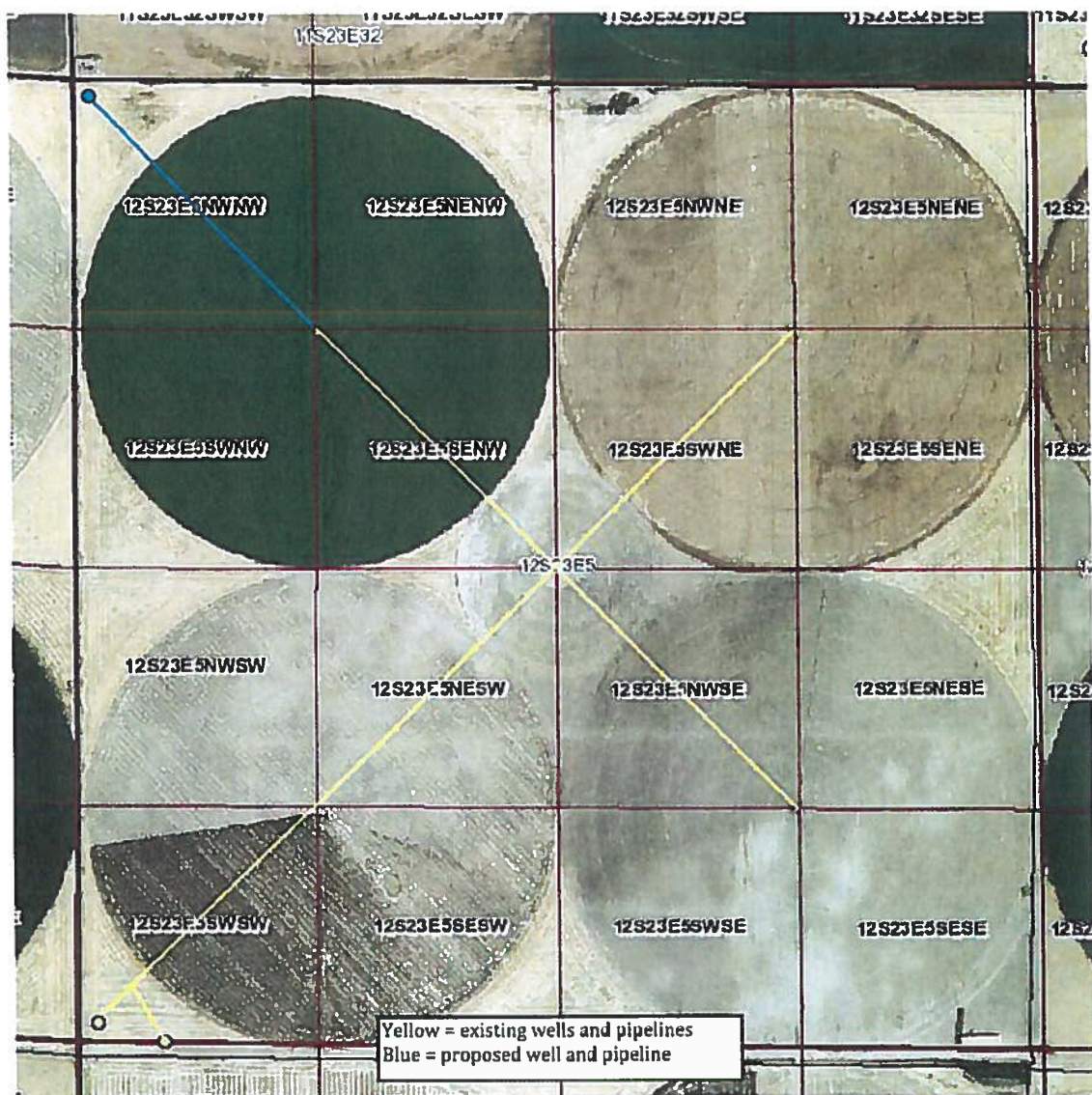
T12S R23E S5	NENE	40.00	T12S R23E S5	NWNE	39.00
T12S R23E S5	SWNE	40.00	T12S R23E S5	SENE	40.00
T12S R23E S5	NENW	40.00	T12S R23E S5	NWNW	40.00
T12S R23E S5	SWNW	40.00	T12S R23E S5	SENW	40.00
T12S R23E S5	NESW	40.00	T12S R23E S5	NWSW	40.00
T12S R23E S5	SWSW	40.00	T12S R23E S5	SESW	40.00
T12S R23E S5	NESE	40.00	T12S R23E S5	NWSE	40.00
T12S R23E S5	SWSE	40.00	T12S R23E S5	SESE	40.00

Total Acres: 639

Conditions of Approval:

1. THE MAXIMUM RATE OF DIVERSION SHALL NOT EXCEED 8.53 CFS
AND THE MAXIMUM VOLUME OF DIVERSION SHALL NOT EXCEED
2556.00 AFA WHEN COMBINED WITH LICENSES G-28402 & G-29523.

Licensed Date: 5/31/1979



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

POWER OF ATTORNEY

The undersigned hereby nominate John M. Marshall, whose address is 575 W. Ban Suite B, Boise, Idaho 83702 as attorney-in-fact, with full authority to act for and on behalf undersigned in all matters related to water right applications pertaining to the undersigned farming operation and feedlot located in Cassia County, Idaho. Such acts shall include, but be limited to, the filing of applications, receiving of all notices, the signing and filing of applications for extension of time and for amendments of said applications.

Dated this 8 day of ~~July 2012~~ August 2012

Chris Drakos

Chris Drakos, on behalf of himself, Lambert Produce Co. Inc., Montana Brand Produce Co. and Double C Farms

Cory King

Cory King, on behalf of himself and Double C Farms

STATE OF IDAHO)
County of Cassia)ss

On this 9 day of August 2012, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Christy King
237 E 1100 S

Notary Public residing at

Burley, ID 83318

SEAL

Maline, Denise

From: Maline, Denise
Sent: Monday, February 23, 2015 4:26 PM
To: 'Brian Higgs'
Subject: Comment Letter for transfer 78303
Attachments: Comment Letter to WM140 for 78303.docx; Transfer 78303.pdf

Hi Brian,

Attached is a cover letter, recommendation form and copy of application for transfer 78303. Please review the information and provide any necessary comments within 21 days. Feel free to contact our office if you have any questions.

Thank you in advance,

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



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

February 23, 2015

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

Via e-mail

RE: Transfer No. 78303
Water Right No(s): 45-2644A, 45-2644B

Dear Mr. Higgs:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

MEMORANDUM

Date: February 23, 2015
To: Transfer 78303 File
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Application proposes adding a well to right 45-2644B as an authorized point of diversion and also proposes a change in the place of use of rights 45-2644A and 45-2644B. The rights involved in this transfer, 45-2644A and 45-2644B, resulted from a late claim in the SRBA and were both decreed in June of 2013. The new well that will be added to right 45-2644B, limited to a total diversion rate of 4.0 cfs, was approved in transfer # 78168 in November of 2012 involving rights 45-2601 and 45-2641. The change in place of use is an adjustment of three acres within a 639 acre place of use so that two sets of SRBA decrees (45-2644A & 45-2644B and 45-2601 & 45-2641) issued at different times for the same place of use will actually have the same recorded place of use. In essence, this transfer is more of a "bookkeeping" type of transfer that attempts to modify recently issued SRBA decrees to match existing conditions that have been recorded on previous SRBA decrees and will result in consistency in the water right records. Since the application only proposes changing the point of diversion and place of use of the rights involved and should result in no actual hydraulic change or affect to other water rights it is recommended that the application be processed without any public notice. The rights involved with the transfer are diverted within Water District 140 so water master comments will be solicited.

- **Authority to File:**
The application is filed in the name of Chris Drakos, the current recorded owner of the rights involved with the transfer. The application was signed by John Marshall who has power of attorney to sign on behalf of Chris Drakos (see copy in file).
- **Water Right Validity:**
The rights involved with the transfer were decreed in the SRBA in June of 2013
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on Economy of the Local Area:**
None anticipated.
- **Effect of 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.

MEMORANDUM

TO: Transfer # 78303 File

FROM: Corey Skinner

DATE: February 23, 2014

SUBJECT: Filing Fee

The filing fee (\$200.00) for this transfer was determined during an October 2012 meeting/discussion with state office staff (see 10/03/2012 e-mail to John Marshall in file). This transfer, # 78303, was filed to add a well to right 45-2644B which resulted from a late claim filed in the SRBA (right decreed 6/26/2013). The new well, limited to a total diversion rate of 4.0 cfs, was approved in transfer # 78168 in November of 2012 involving rights 45-2601 and 45-2641. The filing fee logic was that the 4.0 cfs being transferred was already paid for in the transfer # 78168 filing fee, so only the smallest allowable transfer filing fee (\$200.00) would be charged for transfer # 78303. Note that transfer # 78303 has been amended to also change the place of use of rights 45-2644A and 45-2644B. This change in place of use is an adjustment of three acres within a 639 acre place of use so that two sets of SRBA decrees (45-2644A & 45-2644B and 45-2601 & 45-2641) issued at different times for the same place of use will actually have the same recorded place of use. This place of use adjustment is less than 0.5% of the overall place of use on rights totaling 1.51 cfs (less than 0.01 cfs proportionally) so the minimal filing fee (\$200.00) is appropriate.

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

phone 208-991-2701
fax 208-906-8043
john@jmarshalllaw.com

October 9, 2012

Via US mail

Corey Skinner
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, Idaho 83301

RECEIVED
OCT 10 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

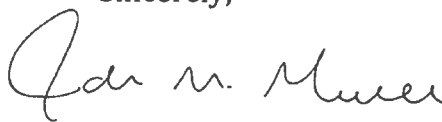
Re: Transfer Application for right 45-2644

Dear Corey:

Per our recent discussion via email concerning IDWR's processing of an existing Application for Transfer that includes rights 45-2601, 45-2641 and 45-2644, please consider this a formal request to remove right 45-2644 from that application. Also, I enclose a new Application for Transfer of Water Right that includes only water right 45-2644 along with the application fee of \$200.00. Please proceed with processing the application that includes rights 45-2601 and 45-2641. I understand the application covering right 45-2644 will be held pending the filing of a director's report for the right in the SRBA.

Please contact me should you have any questions.

Sincerely,



John M. Marshall

Cc: client (via fax)

Skinner, Corey

From: Skinner, Corey
Sent: Wednesday, October 03, 2012 11:11 AM
To: 'John Marshall'
Cc: Merritt, Allen; Keen, Shelley; Peppersack, Jeff; Skaggs, Pam; Fritschle, Carter; Jones, Doug
Subject: RE: Drakos Basin 45 transfer to add POD

John,

Doug pointed out that the third paragraph incorrectly identified claim 45-2644 as claim 45-2641 (also "license 45-2641" should read "license 45-2644"). The first bulleted item also incorrectly identifies claim 45-2644 as claim 45-2641.

Sorry about that,

Corey

From: Skinner, Corey
Sent: Wednesday, October 03, 2012 11:00 AM
To: 'John Marshall'
Cc: Merritt, Allen; Keen, Shelley; Peppersack, Jeff; Skaggs, Pam; Fritschle, Carter; Jones, Doug
Subject: RE: Drakos Basin 45 transfer to add POD

John,

Yesterday afternoon, I had an opportunity to discuss this particular transfer with our Regional Manager and State Office staff. The Department requires that an application for transfer list all of the rights in a common system for which the point of diversion, place of use, period of use, or nature of use are proposed to be changed. You have met this requirement by including decreed rights 45-2601 and 45-2641 and SRBA claim 45-2644 on the transfer application (all three records identify the two existing wells in Section 5, T12S, R23E).

As previously indicated, due to an SRBA recommendation not being made on claim 45-2644, IDWR had decided not to proceed with processing the currently filed transfer until a recommendation is made.

While ~~claim 45-2641~~ **claim 45-2644** identifies the wells in Section 5, the license that it is based on identifies wells in Sections 11 and 12 (T12S, R22E). Decreed rights 45-2600A and 45-2600B along with decreed expansion rights 45-13469 and 45-13470 also identify these same wells in Sections 11 and 12. The ~~original 45-2641 license~~ **license 45-2644** includes limiting conditions when combined with other rights. A preliminary review indicates that different interpretations of these original conditions are possible, in particular how they should now also relate to the Section 5 wells, so at this juncture it is not entirely clear exactly how ~~claim 45-2641~~ **claim 45-2644** will be recommended. This recommendation will ultimately have a bearing on how any transfer involving the wells in Section 5 could be approved with regards to overlapping combination limit conditions.

After our discussion yesterday afternoon, a couple of options were discussed for your consideration...

- Wait until the SRBA recommendation is made for ~~claim 45-2641~~ **claim 45-2644** and then IDWR will proceed with processing the currently filed transfer involving decreed rights 45-2601 and 45-2641 and SRBA claim 45-2644. As indicated in the 11/12/2012 e-mail below, it is anticipated that the recommendation will be reported to the SRBA court in November or early December. ***This is our current plan for how to proceed with the currently filed transfer.***
- Another option that was discussed was to file two transfers with one transfer involving the two decreed rights 45-2601 and 45-2641 and the other transfer involving only SRBA claim 45-2644. IDWR would proceed with processing the transfer involving the two decreed rights 45-2601 and 45-2641 and wait to process the transfer involving SRBA claim 45-2644 once the recommendation is made. The easiest way to accomplish this would be to provide a written request (signed by you since you have power of attorney) to remove claim 45-2644 from the currently filed transfer **and** to file another transfer application that would add the new proposed Section 5 well to



SRBA claim 45-2644. It was agreed upon that since the new transfer would not actually move water (since the 4 cfs to be diverted from the proposed new well is covered by the existing rights in the currently filed transfer) the filing fee for the new transfer only involving SRBA claim 45-2644 would be based on the minimum allowable transfer fee (\$200.00). If this were to occur, IDWR would immediately proceed with processing the transfer involving the two decreed rights 45-2601 and 45-2641. The second transfer, involving SRBA claim 45-2644, would be processed once the recommendation was made. Assuming this second transfer would be approved, an opportunity to appropriately condition the three rights in combination would be provided.

Hopefully, this helps with providing an alternative course of action to the current plan for processing the currently filed transfer. If you have any questions, feel free to give me a call (736-3033).

Corey

From: John Marshall [<mailto:john@jmarshalllaw.com>]

Sent: Tuesday, October 02, 2012 1:24 PM

To: Skinner, Corey

Subject: Re: Drakos Basin 45 transfer to add POD

Corey, do you have any feedback for me on my message below?

Thank you,

John

On Fri, Sep 21, 2012 at 2:41 PM, John Marshall <john@jmarshalllaw.com> wrote:
Corey,

Thank you for the update. I would like to request that the Department reconsider its decision to delay processing the transfer until after making the SRBA recommendation on right 45-2644. The proposed transfer is a relatively simple one, seeking only to add a new well to existing rights. Mr. Drakos would like to have the well in place by next irrigation season. If the transfer is not processed until after the SRBA recommendation is made, there likely will not be sufficient time to process the transfer and bring the new well online (assuming the transfer is approved). Right 45-2644 has very little bearing on the transfer. This right, along with rights 45-2601 and 45-2641, which are both decreed and senior to 45-2644, are appurtenant to the same 640 acres with the same PODs. The pending transfer seeks to transfer a total of 4.0 cfs to the new, alternate POD. Senior decreed rights 45-2601 and 45-2641 combine to authorize 5.24 cfs, more than the 4.0 cfs included in the transfer, so the fate of 45-2644 in the adjudication has no bearing on the transfer. In other words, even if 45-2644 were disallowed by the SRBA--highly unlikely as this is a licensed right with a clear history of use--it would not affect the proposed transfer. Accordingly, could you please discuss the matter with the folks in the decision making chain and explore the possibility of moving this along more quickly?

Thank you,

John

On Tue, Sep 18, 2012 at 5:01 PM, Skinner, Corey <Corey.Skinner@idwr.idaho.gov> wrote:

John,

Allen forwarded this e-mail and asked that I respond. The transfer was received here in our Southern Region Office on September 4th. It was noted that one of the rights included in the transfer was SRBA claim 45-2644 (claim received date of 4/19/2012). This particular claim has not yet been reviewed by SRBA staff and reported to the SRBA court. After consulting with our state office, it was verified that we would not proceed with processing this transfer until the SRBA review and recommendation is made. I have attached a copy of an e-mail from state office staff regarding the status of the 45-2644 claim review for your reference.

Corey

From: Saxton, Craig
Sent: Wednesday, September 12, 2012 9:57 AM
To: Skinner, Corey
Cc: Jones, Doug; Fritschle, Carter
Subject: Late Claim 45-2644

Corey,

Spoke with Carter and he will expedite the review of claim 45-2644. With that said, it won't be reported to the SRBA court till probably November or early December.

Thanks,

c

From: Merritt, Allen
Sent: Tuesday, September 18, 2012 4:51 PM
To: Skinner, Corey
Subject: FW: Drakos Basin 45 transfer to add POD

Corey,

I think you have this one. Please respond to John and give him an estimated timeline.

Thanks,

Allen

From: John Marshall [<mailto:john@jmarshalllaw.com>]
Sent: Tuesday, September 18, 2012 2:26 PM
To: Merritt, Allen
Subject: Drakos Basin 45 transfer to add POD

Allen,

Checking in to see if the revised transfer application I sent to add the POD to right 45-2601 et. al is OK and what processing timeline looks like. (Recall that the original I sent included only one right and not the overlapping rights, so I amended and resent). Thanks,

John M.

208-991-2701