

RECEIVED

SEP 04 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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 change

1. APPLICANT(S) Chris Drakos Phone 208-678-2688
2. MAILING ADDRESS PO Box 793 City Blackfoot
State Idaho Zip 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) 45-2601, 45-2641 and ~~45-2644~~ *PER 10/9/2012 LETTER FROM JOHN MARSHALL*
45-2601, 45-2641 and ~~45-2644~~

- ☒ 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	¼	¼	¼	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:

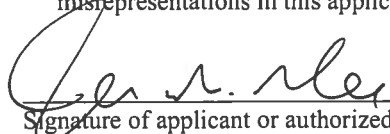
Yes No

- ☐ ☒ 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 $\frac{1}{4}$ $\frac{1}{4}$ 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

8/31/12
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 DM

Date

9-4-2012

Fee paid \$765.00 Date 9/4/2012

Received by A. SKINNER

Receipt # 5032767

Preliminary review completed by _____

Date _____

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

Current Water Right No.: 45-2601

Current Owner: CHRIS DRAKOS
Priority Date: 1/21/1960
Origin: Water Right
Status: Active
Basis: Decreed

Source**Tributary**

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	3.47 CFS	1686.3 AF
	Total Diversion	3.47 CFS	1686.3 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SW1/4SW1/4	Sec. 5,	Twp 12S,	Rge 23E B.M.
CASSIA County				
GROUND WATER	SW1/4SW1/4SW1/4	Sec. 5,	Twp 12S,	Rge 23E B.M.
CASSIA County				

Place of Use**IRRIGATION Within CASSIA County**

T12S R23E S5	Lot 1	NENE	40.00	T12S R23E S5	Lot 2	NWNE	40.00
T12S R23E S5		SWNE	40.00	T12S R23E S5		SENE	40.00
T12S R23E S5	Lot 3	NENW	41.00	T12S R23E S5	Lot 4	NWNW	41.00
T12S R23E S5		SWNW	39.00	T12S R23E S5		SENE	40.00
T12S R23E S5		NESW	40.00	T12S R23E S5		NWSW	40.00
T12S R23E S5		SWSW	39.00	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	39.00

Total Acres: 639

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4. E55 USE OF THIS RIGHT WITH RIGHT NO. 45-2641 IS 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.: 45-2641

Current Owner: CHRIS DRAKOS
Priority Date: 2/24/1961
Origin: Water Right
Status: Active
Basis: Decreed

Source**Tributary**

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	1.77 CFS	863.7 AF
	<u>Total Diversion</u>	1.77 CFS	863.7 AF

Location of Point(s) of Diversion

GROUND WATER	SW1/4SW1/4SW1/4	Sec. 5,	Twp 12S,	Rge 23E B.M.
CASSIA County				
GROUND WATER	SW1/4SW1/4SW1/4	Sec. 5,	Twp 12S,	Rge 23E B.M.
CASSIA County				

Place of Use**IRRIGATION Within CASSIA County**

T12S R23E S5	Lot 1	NENE	40.00	T12S R23E S5	Lot 2	NWNE	40.00
T12S R23E S5		SWNE	40.00	T12S R23E S5		SENE	40.00
T12S R23E S5	Lot 3	NENW	41.00	T12S R23E S5	Lot 4	NWNW	41.00
T12S R23E S5		SWNW	39.00	T12S R23E S5		SENE	40.00
T12S R23E S5		NESW	40.00	T12S R23E S5		NWSW	40.00
T12S R23E S5		SWSW	39.00	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	39.00

Total Acres: 639

Conditions of Approval:

1. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. E55 USE OF THIS RIGHT WITH RIGHT NO. 45-2601 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 639 ACRES IN A SINGLE IRRIGATION SEASON.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
4. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

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

Current Water Right No.: 45-2644

Current Owner: ORE-IDA FOODS INC

Priority Date: 3/6/1961

Origin: Water Right

Status: Active

Basis: License

**NOT PART OF
TRANSFER PER
10/9/2012 LETTER
FROM JOHN MARSHALL**

Source

GROUND WATER

Tributary

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Total Diversion

Diversion Rate

6 CFS

6 CFS

Annual Volume

2556 AF

2556 AF

Location of Point(s) of Diversion

GROUND WATER

CASSIA County

GROUND WATER

CASSIA County

SW1/4NE1/4

Sec. 11,

Twp 12S,

Rge 22E B.M.

SW1/4NW1/4

Sec. 12,

Twp 12S,

Rge 22E B.M.

Place of Use

IRRIGATION Within CASSIA County

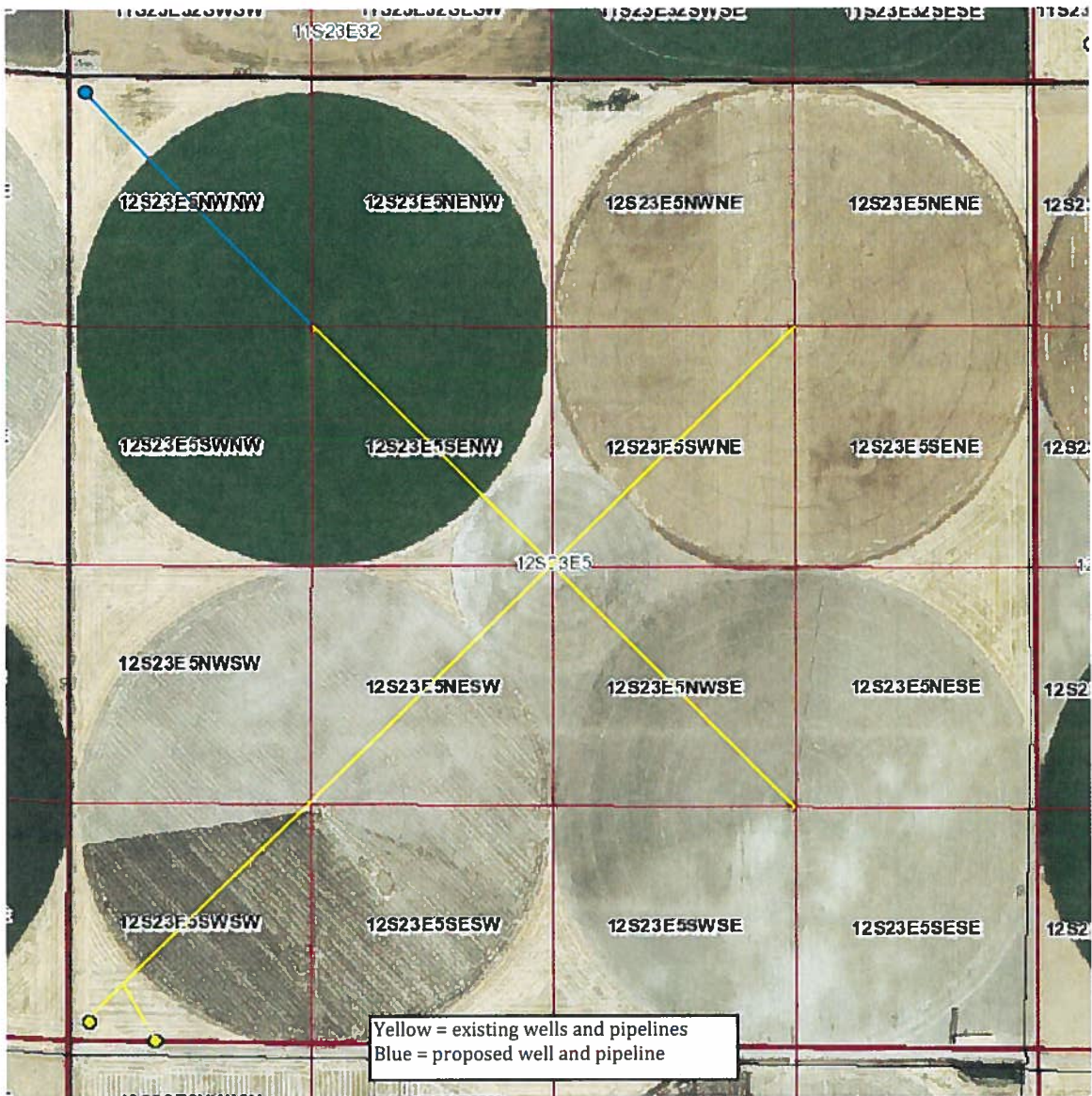
T12S R23E S5	NENE	40.00	T12S R23E S5	NWNE	39.00
T12S R23E S5	SWNE	40.00	T12S R23E S5	SENE	40.00
T12S R23E S5	NENW	40.00	T12S R23E S5	NWNW	40.00
T12S R23E S5	SWNW	40.00	T12S R23E S5	SENE	40.00
T12S R23E S5	NESW	40.00	T12S R23E S5	NWSW	40.00
T12S R23E S5	SWSW	40.00	T12S R23E S5	SESW	40.00
T12S R23E S5	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



Transfer 78168

305111

WARRANTY DEED

#EC1436

For Value Received

PAUL WORNELL and JILL WORNELL, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

CHRIS DRAKOS, a married man as his sole and separate property
 Address: P.O. Box 793, Blackfoot, ID 83221

Hereinafter called the Grantee, the following described premises situated in Cassia County, Idaho, to-wit:

TOWNSHIP 12 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN,
 CASSIA COUNTY, IDAHO

Section 5: ALL

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto including but not limited to State of Idaho, Department of Water Resource Adjudication Nos. 45-2641 and 45-2601.

SUBJECT TO:

All reservations in patents or deeds in the chain of title.

Accruing taxes, levies and assessments; easements and rights of way of record if any.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: November 9, 2005

Paul Wornell

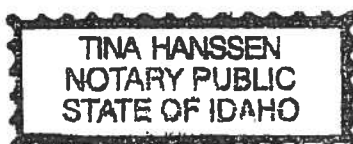
PAUL WORNELL

Jill Wornell

JILL WORNELL

STATE OF IDAHO)
) ss.
 COUNTY OF CASSIA)

On this 9th day of November, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared PAUL WORNELL and JILL WORNELL, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Tina Hanssen

 Notary Public

Residing at:

My Commission expires:

Rupert, ID

05/07/09

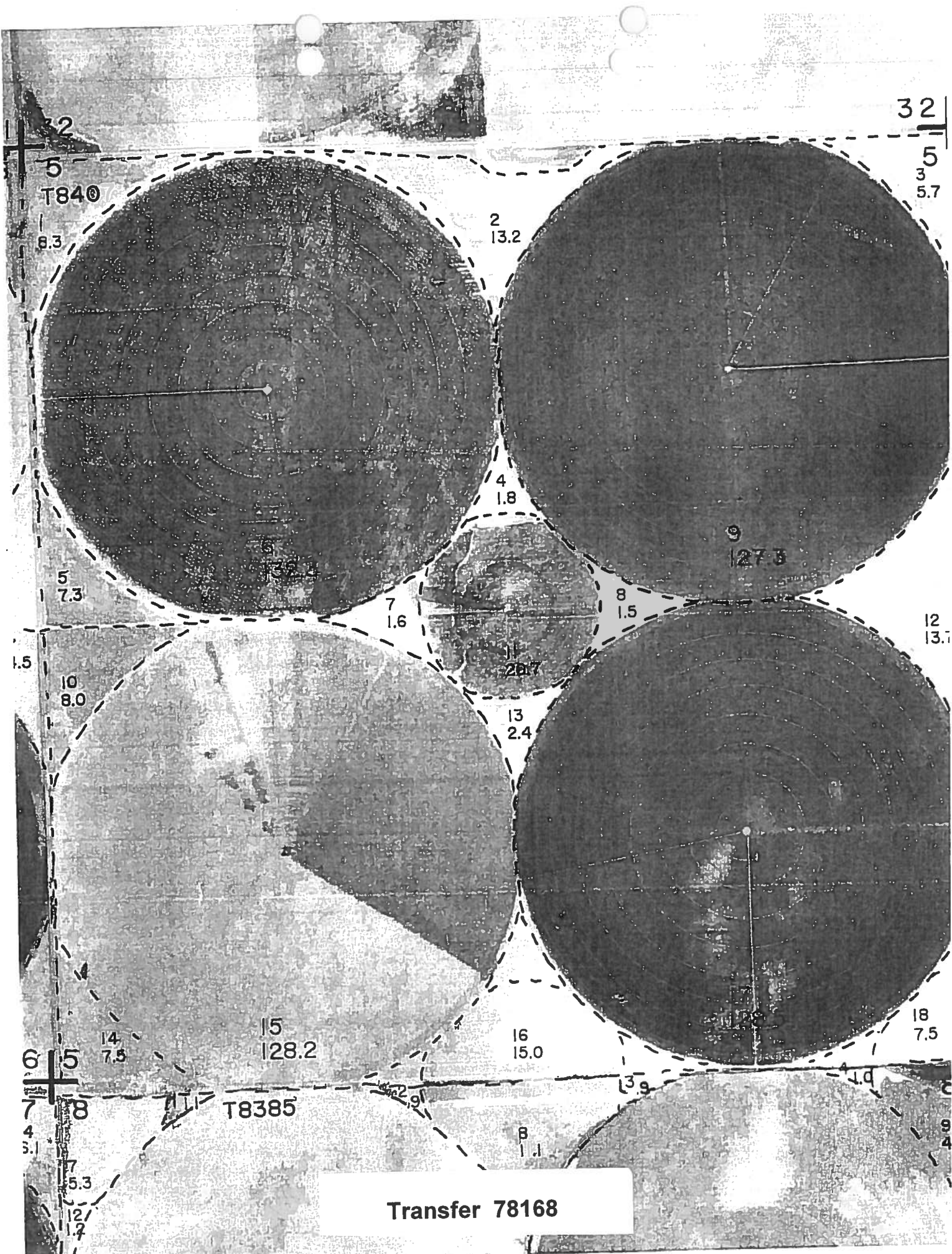
RECORDED AT THE REQUEST OF
 LAND TITLE & ESCROW

2005 NOV 10 PM 1 51

FEE 300 DEPUTY 46

CASSIA COUNTY, IDAHO
 LARRY A. MICKELSEN
 RECORDER

305111



Transfer 78168

Transfer 78168

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 August ~~July 2012~~ 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)
)ss
County of Cassia)

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

SEAL

Barley, ID 83318

My commission expires: 11/12/2016



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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

October 12, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

CHRIS DRAKOS
PO BOX 793
BLACKFOOT, ID 83221

RE: Transfer No. 78168
Water Right No(s). 45-2601, 45-2641

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **TIMES NEWS on 10/18/2012 and 10/25/2012**. Protests to this application may be submitted for a period ending ten (10) days after the second publication **(November 5, 2012)**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline
Administrative Assistant

cc:

JOHN M MARSHALL
JOHN MARSHALL LAW PLLC
575 W BANNOCK ST
BOISE, ID 83702

Maline, Denise

From: Maline, Denise
Sent: Friday, October 12, 2012 8:54 AM
To: Times News
Subject: LEGAL NOTICE
Attachments: Times News Cover Letter.docx; Times News Ad.docx

Attached please find (1) legal notice being submitted for publication on October 18th & 25th, 2012. Please contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources
1341 Fillmore St, Ste 200
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov

October 12, 2012

LEGAL NOTICE DEPARTMENT
TIMES NEWS
PO BOX 548
TWIN FALLS, ID 83303-0548

RE: Application For Permit No.(s): 47-17588

RE: Transfer No. 74994
Water Right No(s): 37-4097

RE: Transfer No. 77869
Water Right No(s): 43-10384, 43-10380, 43-11251, 43-11252, 43-11253, 43-165A, 43-11254, 43-11255, 43-11256, 43-11269, 43-11270, 43-168A, 43-169C, 43-170A, 43-171A, 43-172A, 43-173A, 43-178J, 43-10086, 43-12941, 43-12944, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002, 43-13003, 43-13078, 43-13080, 43-13082, 43-13084, 43-13086, 43-13088, 43-13090, 43-13092, 43-13094, 43-13096, 43-13060

RE: Transfer No. 78130
Water Right No(s): 43-13079, 43-13081, 43-13083, 43-13085, 43-13087, 43-13089, 43-13091, 43-13093, 43-13095, 43-13097

RE: Transfer No. 78168
Water Right No(s): 45-2601, 45-2641

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before November 5, 2012. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

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

47-17588

EVELYN L POPPAY

4586 RIVER RD

BUHL, ID 83316

Point of Diversion SENE S9 T09S R14E TWIN FALLS County Source WASTE WATER Tributary DEEP CREEK

Use: DOMESTIC 03/15 to 11/15 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 9/24/2012

Place Of Use: DOMESTIC

T09S R14E S9 SENE

Application proposes diverting up to 0.02 cfs of wastewater for domestic purposes (irrigation not to exceed 0.5 acres in connection with a home) on property located along River Road approximately 4.0 miles north and 2.6 miles west of the center of Buhl.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 74994

ALEX ANHDER and HOLLY ANHDER, 117 N 2100 E, ROBERTS, ID 83444 has filed Application No. 74994 for changes to the following water rights within LINCOLN County(s): Right No(s). 37-4097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to change the points of diversion (POD) and nature of use for a one-acre portion (0.02 CFS) of wastewater irrigation/stockwater right 37-4097. Right 37-4097 currently provides for up to six acres of irrigation on ground located approximately 1.5 to 1.7 mi. S & 0.8 to 0.9 mi. W of Dietrich. Application proposes to cover wildlife storage uses for an existing pond within the current Place of Use (POU) by drying up approximately one acre of irrigation and change the POD to the location of the impoundment on the wastewater stream.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 77869

ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 77869 for changes to the following water rights within CASSIA County(s): Right No(s). 43-10384, 43-10380, 43-11251, 43-11252, 43-11253, 43-165A, 43-11254, 43-11255, 43-11256, 43-11269, 43-11270, 43-168A, 43-169C, 43-170A, 43-171A, 43-172A, 43-173A, 43-178J, 43-10086, 43-12941, 43-12944, 43-12996, 43-12997, 43-12998, 43-12999, 43-13000, 43-13001, 43-13002, 43-13003, 43-13078, 43-13080, 43-13082, 43-13084, 43-13086, 43-13088, 43-13090, 43-13092, 43-13094, 43-13096, 43-13060. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 32.03 cfs to be diverted for the irrigation of up to 817 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 78130

ALAN J HARPER and BEVERLY K HARPER, 2436 E 1850 S, MALTA, ID 83342 has filed Application No. 78130 for changes to the following water rights within CASSIA County(s): Right No(s). 43-13079, 43-13081, 43-13083, 43-13085, 43-13087, 43-13089, 43-13091, 43-13093, 43-13095, 43-13097. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes to add a point of diversion for irrigation water rights diverted from Raft River by adding a new location downstream from the currently authorized diversions. The new proposed diversion will be located approximately 5.0 miles south and 1.0 mile east of Malta. The new proposed and currently authorized points of diversion will allow for up to 0.18 cfs to be diverted for the irrigation of up to 2.5 acres on an existing farm located approximately 4.0 to 6.0 miles south and 0.75 to 1.8 miles east of Malta.

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 78168**

CHRIS DRAKOS, PO BOX 793, BLACKFOOT, ID 83221 has filed Application No. 78168 for changes to the following water rights within CASSIA County(s): Right No(s). 45-2601, 45-2641. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes adding a new point of diversion (new well to be drilled) to two groundwater rights used to irrigate 639 acres on a farm located approximately 11.0 - 12.0 miles north and 4.0 - 5.0 miles east of Oakley. The new well will be located near the northwest corner of the farm and will be limited to a diversion rate of 4.0 cfs. In total, the new well and two existing wells on the farm will be limited to the currently authorized diversion of 5.24 cfs for the irrigation of 639 acres.

Permits will be subject to all prior water rights. For additional information concerning the property location, 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/ExtSearch/WRFiling.asp. 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, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 together with a protest fee of \$25.00 for each application on or before November 5, 2012. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on October 18th & 25th, 2012



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 12, 2012

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

RE: Transfer No. 78168
Water Right No(s). 45-2601, 45-2641

Dear Mr. Higgs:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form 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: October 11, 2012
To: Transfer 78168 File
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Application proposes adding a new point of diversion (new well to be drilled) to two groundwater rights (45-2601 & 45-2641) used to irrigate 639 acres on a farm located approximately 11.0 - 12.0 miles north and 4.0 - 5.0 miles east of Oakley. The new well will be located near the northwest corner of the farm and will be limited to a diversion rate of 4.0 cfs as listed on the application, according to the filing fee that was paid, and as discussed in the cover letter that accompanied the application. Therefore, a condition will be required limiting the diversion from the new well to 4.0 cfs. In total, the new well and two existing wells on the farm will be limited to the currently authorized diversion of 5.24 cfs for the irrigation of 639 acres. The irrigation wells involved with the transfer are located within the ESPA smooth model boundary, the Oakley Kenyon CGWA, and Water District 140. However, the new proposed well is located within an adjacent groundwater model cell as the two existing wells so a groundwater model analysis is not required.

Note that late SRBA claim 45-2644 also identifies the currently authorized points of diversion for rights 45-2601 and 45-2641. The transfer originally included late SRBA claim 45-2644 and it was decided to delay the processing of the transfer until a formal recommendation was made for claim 45-2644. At the request of the applicant's attorney, after consulting with IDWR State Office personnel, it was decided that if a separate transfer was filed involving late SRBA claim 45-2644, then we could proceed with processing the transfer involving rights 45-2601 and 45-2641 (see correspondence in file). A separate transfer has been filed involving only late SRBA claim 45-2644, but is currently on hold until a formal recommendation is made for claim 45-2644. Once the recommendation is made, the transfer will be processed and 45-2644 can be conditioned when combined with rights 45-2601 and 45-2641.

- **Authority to File:** The applicant (Chris Drakos) is listed as the current owner of both of the rights involved with the transfer.
- **Water Right Validity:** The rights involved with the transfer were decreed in the SRBA in May of 2005. Review of aerial photography supports the recent use of the water rights involved with the transfer. Possible forfeiture does not appear to be an issue.
- **Injury to Other Water Rights:** None anticipated.
- **Enlargement of Use:** No issues anticipated if appropriate conditions are implemented.
- **Local Public Interest:** No negative issues anticipated.
- **Beneficial Use/Conservation of Water Resources:** No negative issues anticipated. Proposed use is recognized as a beneficial use of water. It appears that sprinklers are utilized as part of the irrigation system.

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.

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

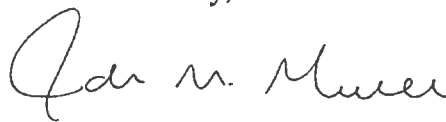
Re: Transfer Application for right 45-2644

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

John Marshall Law PLLC

575 W Bannock, Suite B
Boise, ID 83702

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

August 30, 2012

Via US mail

Allen Merritt, PE
Southern Region Manager
Idaho Department of Water Resources
1341 Fillmore St., Suite 200
Twin Falls, Idaho 83301

RECEIVED

SEP 04 2012

**DEPT. OF WATER RESOURCES
SOUTHERN REGION**

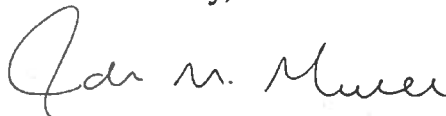
Re: Transfer Application to Add Point of Diversion for right 45-2601

Dear Allen:

Enclosed please find a revised Application for Transfer of Water Right — Point(s) of Diversion for water rights 45-2601, 45-2641 and 45-2644, along with the application fee of \$740.00. Per our recent discussion, the transfer seeks to transfer only a portion of the total authorized diversion rate under the rights to the new, proposed point of diversion. Although the proposed new well is within the ESPA, the well is in the model cell adjacent to the cell where the authorized points of diversion are located. Consequently, depletion model runs are not required (per page 13 of Transfer Processing Memo #24). Finally, the ownership for right 45-2644 (for which a claim is pending in the SRBA) has not been changed, so the application also seeks to make this change. I have enclosed the \$25 processing fee.

Please contact me should you have any questions.

Sincerely,



John M. Marshall

Cc: client (via fax)