

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88627**

This is to certify that: **SCHENK LAND & CATTLE LP**
1300 S 50 W
OAKLEY, ID 83346-8715

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>
45-12444	WR/DECREED	4/1/1870	4.133 cfs	N/A	300.0	892.0	LAND RANCH SPRING
45-12450	WR/DECREED	5/15/1955	4.430 cfs	2161.8 af	N/A	892.0	GROUND WATER

Associated Water Rights Also Included in the Transfer Approval (Conditions & Place of Use Updated)

<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>
45-4013B	WR/DECREED	4/10/1948	0.880 cfs	429.4 af	560.0	844.1	GROUND WATER
45-12447	WR/DECREED	4/1/1890	5.330 cfs	N/A	439.0	844.1	LAND CREEK
45-703	WR/DECREED	4/1/1912	3.200 cfs	N/A	160.0	844.1	LAND CREEK

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>
45-12444	NO	YES	YES	NO	YES	YES
45-12450	NO	NO	YES	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>
45-12444	45-12444	4.133 cfs	N/A	252.1	844.1	N/A	N/A	N/A	N/A	N/A
45-12450	45-12450	4.190 cfs	2045.0 af	N/A	844.1	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		8.323 cfs	N/A	N/A	844.1		N/A	N/A	N/A	N/A

SUPPORT DATA

IN FILE # 45-12444

Transfer No. 88627

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 88627**

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 6th day of January, 2024.



Southern Region Manager



WATER RIGHT NO. 45-12444**As Modified by Transfer No. 88627**

In accordance with the approval of Transfer No. 88627, Water Right No. 45-12444 is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
1300 S 50 W
OAKLEY, ID 83346-8715

Priority Date: 4/1/1870

Source: LAND RANCH SPRING

Tributary: LAND CREEK

BENEFICIAL USE	From	To	Diversion Rate	Diversion Volume
DOMESTIC	01/01	to 12/31	0.500 cfs	
IRRIGATION	03/01	to 12/15	2.633 cfs	
STOCKWATER	01/01	to 12/31	1.000 cfs	361.2 af
COMMERCIAL	01/01	to 12/31	1.000 cfs	361.2 af
			4.133 cfs	

LOCATION OF POINT(S) OF DIVERSION

LAND RANCH SPRING SWSWNW Sec 8 Twp 13S Rge 23E CASSIA County

PLACE OF USE: COMMERCIAL

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	22E	25									X			X	X	X	X	X	
12S	23E	30													X	X	X	X	
																L 3	L 4		

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	22E	1	X																
			L 1																

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	22E	36	39.0	35.0	38.0	35.2	40.0	33.0	34.0	37.0	37.8	30.9	26.1	36.2	33.8	35.1	34.8	29.2	555.1
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2											L 3	L 4		
13S	22E	1	10.9	40.1	19.7		33.7			16.6									121.0
			L 1	L 2			L 3												
13S	23E	6		29	29														58
			L 1	L 2															

Right Acre Limit: 252.1

POU Total Acres: 844.1

Transfer No. 88627

WATER RIGHT NO. 45-12444
As Modified by Transfer No. 88627

PLACE OF USE: STOCKWATER

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	22E	25									X			X	X	X	X	X	
12S	23E	30													X	X	X	X	
																L 3	L 4		

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 252.1 acres within the authorized place of use in a single irrigation season.
2. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 844.1 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use.
4. Use of water under this right may 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.
5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. This right does not grant any right-of-way or easement across the land of another.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 45-12450
As Modified by Transfer No. 88627

In accordance with the approval of Transfer No. 88627, Water Right No. 45-12450 is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
 1300 S 50 W
 OAKLEY, ID 83346-8715

Priority Date: 5/15/1955

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	4.190 cfs	2045.0 af
			4.190 cfs	2045.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESESW Sec 8 Twp 13S Rge 23E 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	22E	36	39.0	35.0	38.0	35.2	40.0	33.0	34.0	37.0	37.8	30.9	26.1	36.2	33.8	35.1	34.8	29.2	555.1
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2											L 3	L 4		
13S	22E	1	10.9	40.1	19.7		33.7			16.6									121.0
			L 1	L 2			L 3												
13S	23E	6	29	29															58
			L 1	L 2															

POU Total Acres: 844.1

CONDITIONS OF APPROVAL

1. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
2. Rights 45-4013B and 45-12450 when combined shall not exceed a total diversion rate of 5.07 cfs and a total annual maximum diversion volume of 2474.4 af at the field headgate.
3. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 844.1 acres.
4. 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.

Transfer No. 88627

WATER RIGHT NO. 45-12450

As Modified by Transfer No. 88627

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. 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.
7. The right holder shall make full beneficial use of all surface water available to the right holder for irrigation of lands within the authorized place of use for this right. The right holder may divert ground water under this right to irrigate land with appurtenant surface water rights when the surface water supply is not reasonably sufficient to irrigate the place of use for this water right or is not available due to drought, curtailment by priority, or the seasonal startup and shutoff or maintenance schedule for canal company or irrigation district deliveries. The right holder shall not divert ground water for irrigation purposes under this right if use of the surface water supply is intentionally discontinued or reduced (for example abandoned, forfeited, sold, disallowed by court decree, or leased to the Water Supply Bank), or is not deliverable due to non-payment of annual assessments, without an approved transfer pursuant to Idaho Code § 42-222 or other Department approval.
8. This right does not grant any right-of-way or easement across the land of another.
9. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
10. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
11. Pursuant to Idaho Code § 42-1412(6), 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

WATER RIGHT NO. 45-4013B
As Modified by Transfer No. 88627

In accordance with the approval of Transfer No. 88627, Water Right No. 45-4013B is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
 1300 S 50 W
 OAKLEY, ID 83346-8715

Priority Date: 4/10/1948

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	03/15	to 11/15	0.880 cfs	429.4 af
			0.880 cfs	429.4 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SESESW Sec 8 Twp 13S 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	22E	36	39.0	35.0	38.0	35.2	40.0	33.0	34.0	37.0	37.8	30.9	26.1	36.2	33.8	35.1	34.8	29.2	555.1
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2											L 3	L 4		
13S	22E	1	10.9	40.1	19.7		33.7			16.6									121.0
				L 1	L 2														
13S	23E	6	29	29															58
			L 1	L 2															

Right Acre Limit: 560.0

POU Total Acres: 844.1

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 560 acres within the authorized place of use in a single irrigation season.
2. Rights 45-4013B and 45-12450 when combined shall not exceed a total diversion rate of 5.07 cfs and a total annual maximum diversion volume of 2474.4 af at the field headgate.
3. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 844.1 acres.
4. 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.

Transfer No. 88627

WATER RIGHT NO. 45-4013B
As Modified by Transfer No. 88627

CONDITIONS OF APPROVAL

5. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
6. 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.
7. The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
8. If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
9. This right does not grant any right-of-way or easement across the land of another.
10. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. 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.

WATER RIGHT NO. 45-12447**As Modified by Transfer No. 88627**

In accordance with the approval of Transfer No. 88627, Water Right No. 45-12447 is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
1300 S 50 W
OAKLEY, ID 83346-8715

Priority Date: 4/1/1890

Source: LAND CREEK

Tributary: GOOSE CREEK

BENEFICIAL USE

	From	To	Diversion Rate
DOMESTIC	01/01	to 12/31	0.100 cfs
IRRIGATION	03/01	to 12/15	5.330 cfs
STOCKWATER	01/01	to 12/31	0.040 cfs
			5.330 cfs

LOCATION OF POINT(S) OF DIVERSION

LAND CREEK L1 (SENESE) Sec 6 Twp 13S Rge 23E CASSIA County

PLACE OF USE: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	22E	1	X																
			L 1																

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	22E	36	39.0	35.0	38.0	35.2	40.0	33.0	34.0	37.0	37.8	30.9	26.1	36.2	33.8	35.1	34.8	29.2	555.1
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2											L 3	L 4		
13S	22E	1	10.9	40.1	19.7		33.7			16.6									121.0
			L 1	L 2			L 3												
13S	23E	6	29	29															58
			L 1	L 2															

Right Acre Limit: 439.0

POU Total Acres: 844.1

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	22E	1	X																
			L 1																

Transfer No. 88627

WATER RIGHT NO. 45-12447
As Modified by Transfer No. 88627

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 439 acres within the authorized place of use in a single irrigation season.
2. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 844.1 acres.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. This right does not grant any right-of-way or easement across the land of another.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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.

WATER RIGHT NO. 45-703
As Modified by Transfer No. 88627

In accordance with the approval of Transfer No. 88627, Water Right No. 45-703 is now described as follows:

Right Holder: SCHENK LAND & CATTLE LP
 1300 S 50 W
 OAKLEY, ID 83346-8715

Priority Date: 4/1/1912

Source: LAND CREEK

Tributary: GOOSE CREEK

BENEFICIAL USE

	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	3.200 cfs
STOCKWATER	03/15	to 11/15	0.040 cfs
			3.200 cfs

LOCATION OF POINT(S) OF DIVERSION

LAND CREEK L1 (SENESE) Sec 6 Twp 13S Rge 23E 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	22E	36	39.0	35.0	38.0	35.2	40.0	33.0	34.0	37.0	37.8	30.9	26.1	36.2	33.8	35.1	34.8	29.2	555.1
12S	23E	31			1.0										3.0	35.0	36.0	35.0	110.0
					L 2											L 3	L 4		
13S	22E	1	10.9	40.1	19.7		33.7			16.6									121.0
				L 1	L 2														
13S	23E	6	29	29															58
			L 1	L 2															

Right Acre Limit: 160.0

POU Total Acres: 844.1

PLACE OF USE: STOCKWATER

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	22E	1	X																
			L 1																

CONDITIONS OF APPROVAL

1. This right is limited to the irrigation of 160 acres within the authorized place of use in a single irrigation season.
2. Rights 45-703, 45-4013B, 45-12444, 45-12447 and 45-12450 when combined shall not exceed the irrigation of 844.1 acres.

Transfer No. 88627

WATER RIGHT NO. 45-703

As Modified by Transfer No. 88627

CONDITIONS OF APPROVAL

3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use.
4. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
5. This right does not grant any right-of-way or easement across the land of another.
6. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
8. 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 # 88627
45-12444

This map depicts the STOCKWATER & COMMERCIAL 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.



0 0.5 1 2 Miles

-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters
-  Point of Diversion
-  State Outline

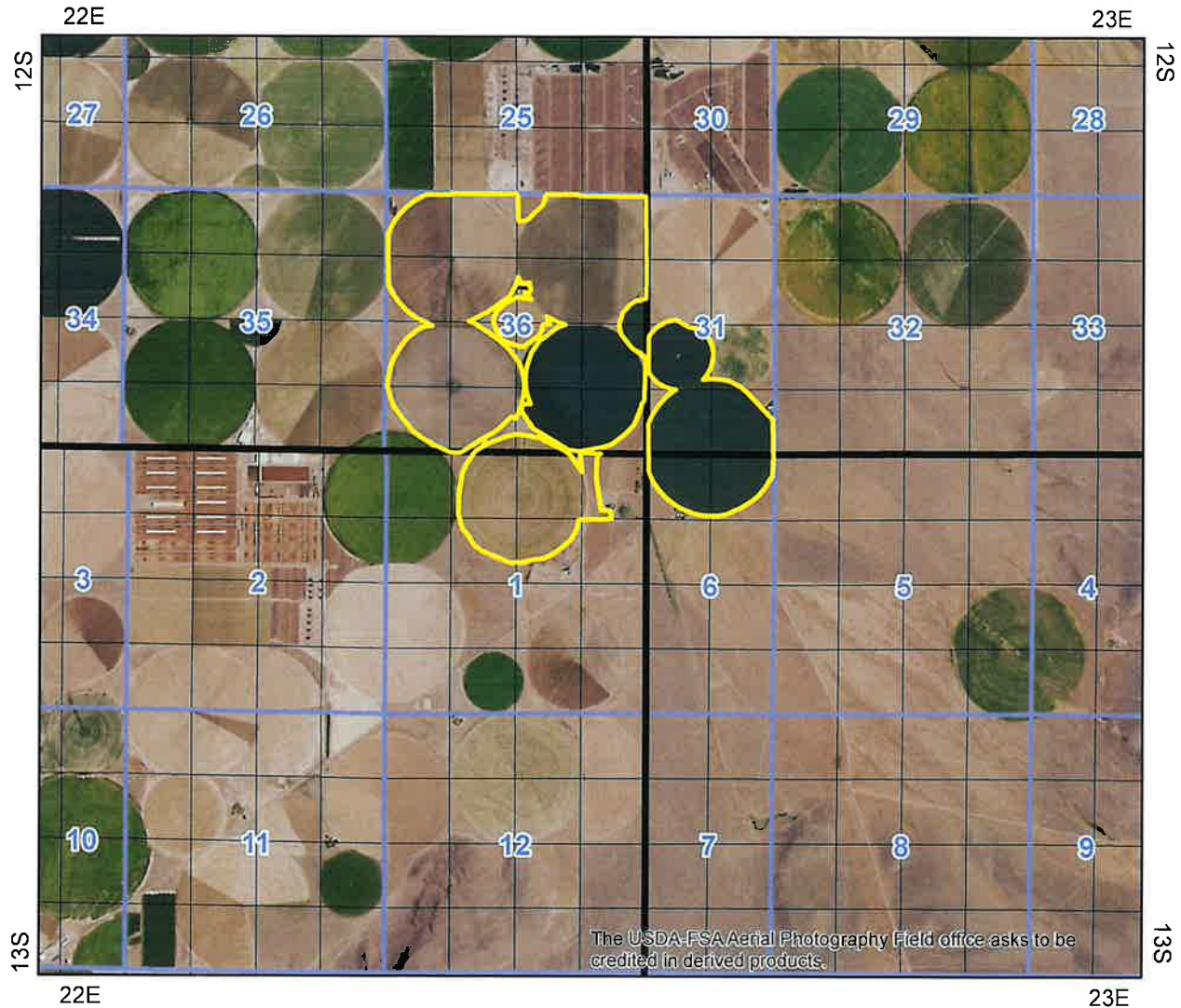


State of Idaho
Department of Water Resources

Attachment to Transfer # 88627

45-703, 45-4013B, 45-12444, 45-12447 and 45-12450

This map depicts the IRRIGATION place of use boundary for these water rights at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

January 8, 2024

SCHENK LAND & CATTLE LP
1300 S 50 W
OAKLEY ID 83346-8715

Re: Transfer No: 88627

Water Right No(s): 45-703, 45-4013B, 45-12444, 45-12447, 45-12450

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,



Corey Skinner
Southern Regional Manager

Enclosure

c:

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

PACIFIC LIFE INSURANCE CO
C/O EQUITABLE AGRIFINANCE LLC
6300 C ST SW STOP 3B-CR
CEDAR RAPIDS IA 52404-7470

WATER DISTRICT 140
JAXON HIGGS
355 W 500 S
BURLEY ID 83318-5229

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2024 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 88627

Water Right No(s): 45-703, 45-4013B, 45-12444, 45-12447, 45-12450

SCHENK LAND & CATTLE LP
1300 S 50 W
OAKLEY ID 83346-8715

BROCKWAY ENGINEERING PLLC
C/O GREG SULLIVAN
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301-3082

PACIFIC LIFE INSURANCE CO
C/O EQUITABLE AGRIFINANCE LLC
6300 C ST SW STOP 3B-CR
CEDAR RAPIDS IA 52404-7470

WATER DISTRICT 140
JAXON HIGGS
355 W 500 S
BURLEY ID 83318-5229



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.

MEMORANDUM

Date: January 4, 2024
To: Transfer #88627, Schenk Land & Cattle LP Transfer file
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to change the nature of use, period of use, and place of use for a 47.9-acre (0.50 cfs) portion of irrigation water right 45-12444 from a farm located 5.5 – 7.0 miles north and 2.5 – 4.0 miles east of Oakley to stockwater and commercial use at an existing feedlot located approximately 7.0 - 7.5 miles north and 2.8 – 4.0 miles east of Oakley. The application also proposes to change the recorded location of the point of diversion of water right 45-12444 to reflect the actual location of Land Ranch Spring (approximately 4.5 miles north and 4.1 miles east of Oakley). The transfer also reduces the place of use of overlapping right 45-12450 by 47.9 acres (with a corresponding reduction in rate and volume) and reduces the PPU of associated rights 45-703, 45-4013B, and 45-12447 by 47.9 acres to reflect the conversion of the 47.9 acres under right 45-12444.

The transfer is in Water District 140 so Watermaster comments were solicited. The Watermaster did not object to the transfer. The transfer was advertised and subject to public protest. No protests were filed.

- **Authority to File:**

The Department's database indicates that the rights are owned by the applicant, Schenk Land & Cattle LP. The feedlot involved with the application is owned by Idaho Agri Investments LLC, but there is a consent agreement included with the application agreeing to the proposed transfer. Pacific Life Insurance Co is listed as a Security Interest on the water rights involved with the transfer, but there is a signed statement from Pacific Life Insurance Co agreeing to the transfer.

- **Water Right Validity:**

The water right was decreed in 2005, transferred in 2011 and 2021, and recent aerial imagery supports irrigation use, so forfeiture is likely not an issue.

- **Injury to Other Water Rights:**

The application proposes a change in period of use for a surface water right from the irrigation season to year round use. IDWR records indicate that there is only one surface water right, 45-10407, diverted from the source &/or downstream during the non-irrigation season. However, the owner of this right signed a statement of consent agreeing to the transfer (copy included with application).

- **Enlargement of Use:**

None anticipated. Conversion from irrigation to stockwater and commercial use was based on a weighted average of precipitation deficit values (2.51 acre-feet per acre) for the crops grown on 47.9 acres. This results in a net reduction in potential allowable diversion volume. The application proposes reducing the place of use of overlapping right 45-12450 by 47.9 acres (with a corresponding reduction in rate and volume) and reducing the PPU of associated rights 45-703, 45-4013B, and 45-12447 by 47.9 acres to reflect the conversion of the 47.9 acres under right 45-12444.

Page 2

Transfer #88627 Sufficiency Memo

January 4, 2024

- **Local Public Interest:**

No issues anticipated. The transfer was advertised.

- **Beneficial Use/Conservation of Water Resources:**

Proposed uses are recognized as beneficial uses of water.

- **Effect on the Economy of the Local Area:**

None Anticipated

- **Effect of the Agricultural Base of the 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.

* **Proof of Publication** *

Twin Falls Times-News
132 Fairfield St W, Twin Falls, Idaho 83301

RECEIVED

DEC 18 2023

DEPT OF WATER RESOURCES
SOUTHERN REGION

SHERRI DAVIS, being duly sworn, deposes and says: That she is the Principal Clerk of the Times-News, a daily newspaper printed and published at Twin Falls, Twin Falls County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in the Times-News, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

ID DEPARTMENT OF WATER RESOURCES Southern Region
Denise Maliine Administrative Assistant
650 ADDISON AVE W, STE 500
TWIN FALLS ID 83301

ORDER NUMBER 146914

Sherry Davis

(Legals Clerk)

STATE OF IDAHO)
 SS
COUNTY OF TWIN FALLS)

On this 15th day of December in the year of 2023 before me, a Notary Public, personally appeared before me Sherry Davis known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Morgan Shindle
Notary Public FOR Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 11/20/2029



Section: Legals

Category: 50 Legal

PUBLISHED ON: 12/07/2023, 12/14/2023

TOTAL AD COST: 270.34

FILED ON: 12/14/2023

✓ DM 12/22/2023

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 87728**

✓ C BAR CATTLE CO, C/O CHRISTOPHER F ROBINSON, PO BOX 540478, N SALT LAKE, UT 84054-0478; CONSTRUCTION INC, PO BOX 540478, N SALT LAKE, UT 84054-0478 has filed Application No. 87728 for changes to the following water rights within CASSIA County(s): Right No(s). 43-10573, 43-13900, 43-2097C, 43-4085, 43-4236, 43-7216. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes changing the place of use, nature of use and period of use for an 11.8 acre portion (0.1 cfs) of irrigation water right from Six Mile Creek to allow for diversion and use in a new interconnected stockwater system. Application also proposes changing the place of use for 0.71 cfs of one groundwater stockwater right, one Six Mile Creek stockwater right, one Mortenson Spring stockwater right, one Hutchev Spring stockwater right and one stockwater right from springs tributary to Meadow Creek. In total, 0.87 cfs will be diverted into the interconnected stockwater system that will provide stockwater to 124 tracts of private ground along an interconnected pipeline located generally along the west and north sides of the Black Pine Mountain within Township 13 South, Range 28 East; Township 13 South, Range 29 East; Township 14 South, Range 28 East; Township 14 South, Range 29 East; Township 15 South, Range 27 East; Township 15 South, Range 28 East.

TRANSFER NO. 88627

✓ SCHENK LAND & CATTLE LP, 1380 S 50 W, OAKLEY, ID 83346-8715 has filed Application No. 88627 for changes to the following water rights within CASSIA County(s): Right No(s). 45-12444, 45-12450. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the nature of use, period of use, and place of use for a 47.9 acre (0.50 cfs) portion of irrigation water right 45-12444 from a farm located 5.5 to 7.0 miles north and 2.5 to 4.0 miles east of Oakley to stockwater and commercial use at an existing feedlot located approximately 7.0 to 7.5 miles north and 2.8 to 4.0 miles east of Oakley. The application also proposes to change the recorded location of the point of diversion of water right 45-12444 to reflect the actual location of Land Ranch Spring (approximately 4.5 miles north and 4.1 miles east of Oakley).

TRANSFER NO. 88629

✓ MVCP LLC, SHAROL SEARLE, RAYMOND C SEARLE, CLOYD R SEARLE FAMILY TRUST, 474 E 550 S, BURLEY, ID 83318-5634; KENT SEARLE FAMILY TRUST, 476 E 600 S, BURLEY, ID 83318-5636; CRAIG SEARLE FAMILY TRUST, 522 E 600 S, BURLEY, ID 83318-5636; CLIFFORD SEARLE FAMILY TRUST, 498 S 450 E, BURLEY, ID 83318-5642; KELLY SEARLE FAMILY TRUST, 739 S 50 W, BURLEY, ID 83318-5702 have filed Application No. 88629 for changes to the following water rights within CASSIA County(s): Right No(s). 45-13904, 45-13981, 45-13982, 45-14412, 45-14413, 45-14414, 45-14415, 45-14416, 45-14417, 45-14418, 45-2383, 45-7004, 45-7118, 45-7125, 45-7186A, 45-7317. The purpose of the transfer is to change a portion of the above rights as follows: Application proposes drilling a new well and adding it as a new point of diversion (POD) to sixteen ground water irrigation rights. POD will be limited to the diversion of 3 cfs. Proposed well will be located approximately 7.1 miles south and 3.5 miles east of the intersection of Overland Ave and Main St in Burley.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or to see a full description of these rights and/or the proposed transfers, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before December 26, 2023. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director
Publish: December 7, 14, 2023

✓ OK DM 12/22/2023

Skinner, Corey

From: Jaxon Higgs <jaxon@waterwellconsultants.com>
Sent: Thursday, December 7, 2023 5:18 PM
To: Skinner, Corey
Subject: RE: Comment Letters for Transfer 88627 (Schenk) & 88629 (MVCP, Searle et al)

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Oh that's good to know! Thank you for digging into that for me, I know someone in the valley will ask me about it.

I don't have any issues with that transfer.

Thanks!

Jaxon

From: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Sent: Thursday, December 07, 2023 5:16 PM
To: Jaxon Higgs <jaxon@waterwellconsultants.com>
Subject: RE: Comment Letters for Transfer 88627 (Schenk) & 88629 (MVCP, Searle et al)

Jaxon,

Sorry it took a while to get back to you on this. The copies of the 2021 FSA records submitted with the application support the areas being dried up. I just measured the three pivots where the end guns are being removed and the FSA field measurements of acres are actually a little bit bigger than the water right records.

Hopefully, this helps,

Corey

From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Friday, December 1, 2023 10:29 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Subject: FW: Comment Letters for Transfer 88627 (Schenk) & 88629 (MVCP, Searle et al)

Corey,

Can you answer Jaxon's question on the Schenk transfer please?

Thanks

From: Jaxon Higgs <jaxon@waterwellconsultants.com>
Sent: Friday, December 1, 2023 10:17 AM
To: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Subject: RE: Comment Letters for Transfer 88627 (Schenk) & 88629 (MVCP, Searle et al)

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Hi Denise,

I don't have a problem with the Searle transfer.

On the Schenk transfer it appears as though they will be removing some endguns, but the land under a few of the endguns looks like it was already dry. Can we get clarification on that? Otherwise, I don't see a problem with it.

Thank you!

Jaxon