

## Bradbury, Allen

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**From:** Kelly, Patrick  
**Sent:** Thursday, June 06, 2019 1:22 PM  
**To:** mikeihli@gmail.com  
**Cc:** Kaiser, Anna; Bradbury, Allen  
**Subject:** RE: Applications for Permit No. 57-12004 & 57-12005 and Application for Transfer no. 83238

Hello Mike,

I have copied your email and provided some answers to your questions in red:

Regarding the King application: What is the state of the waste water being filed on now? **The state of the water being applied for, if I understand you correctly, is waste water or water that has been diverted and used for irrigation purposes and being recaptured either on their property or a drain.** Is it returning naturally to Castle Creek, or is it being used or going somewhere else? **Any water on the King property that was not consumed would flow back to Castle Creek.** The point of the question is that I'm wondering that if he receives this permit, which of course technically would be junior to all other users on Castle Creek, could he refuse to turn that water loose to satisfy a call by a downstream user with a senior priority? **A user has the right to collect the water on their property and "re-use" this water or wastewater.** People can also file for wastewater that comes out of a drain, as you are familiar with. In regards to turning the water "loose" to satisfy a senior user is more relevant to the natural flow water right originally serving the property. If a senior user makes a call that they are not getting their water, then you can shut down any juniors needed to deliver the senior. If the natural flow right is more senior than the person making the water call, they cannot prevent the most senior user from collecting wastewater still on their property under their natural flow right. Could he claim that as "waste water" it is not necessary to release it to fulfill other rights? **In the case of the King application, they are proposing to collect water out of a bubbler at a location on his property. That wastewater is present on his property because of water diverted under his natural flow rights 57-123 and 57-2208 with a 1897 and 1910 priority date respectively. If those rights are out of priority, then King has no wastewater to divert.** I am not versed in the Department regulations regarding waste waste, so I hope you can help me.

Regarding Low application 57-12005: This appears to be an application to divert water to storage to take advantage of excess capacity in his existing reservoir. Is this correct, or am I missing something? **That is correct. It is to add another 65 af of water to the storage pond for irrigation use.**

Regarding Low application for transfer: Is this essentially an application to shift water rights around to achieve a permitted place of use so that he can divert water during the irrigation season to whatever fields are necessary? **They are applying to recognize all three points of diversion on all of their water rights, meaning they could divert at any location up to the limits of the maximum diversion rate. The rights already have the same place of use, so I guess you could call it whatever fields are necessary.** If that is the case, and I don't want to get ahead of myself too far, if he was not using one of the rights for irrigation somewhere on the permitted place of use, could he divert that water into his storage reservoir for later use? **No. Irrigation storage or irrigation from storage is not proposed to be added to the rights.** If so, is that allowed under Department rules? **A user can complete a transfer to perform a nature of use change for the consumptive portion of the right.** Meaning to change an irrigation right to another use, a user would lose a portion of the irrigation right that was non-consumptive. Also, based on the application, it appears that he plans to use a pump at the new diversion. That doesn't really change anything, but I am just looking down the road at the administration of the diversion from a water master point of view. **The transfer is proposing to create a point of diversion for all of their rights at a location where they can pump it back to their place of use.**

I hope this helps answer your questions. If not feel free to call me at 334-2190 and we can discuss it further.  
Sincerely,

**Patrick Kelly**

Water Rights Supervisor  
Emergency Agency Coordinator  
2735 Airport Way  
Boise, Idaho 83705  
o: 208.334.2190  
[patrick.kelly@idwr.idaho.gov](mailto:patrick.kelly@idwr.idaho.gov)

**From:** Kaiser, Anna

**Sent:** Thursday, June 06, 2019 10:45 AM

**To:** Kelly, Patrick <[Patrick.Kelly@idwr.idaho.gov](mailto:Patrick.Kelly@idwr.idaho.gov)>; Bradbury, Allen <[Allen.Bradbury@idwr.idaho.gov](mailto:Allen.Bradbury@idwr.idaho.gov)>

**Subject:** FW: Applications for Permit No. 57-12004 & 57-12005 and Application for Transfer no. 83238

Good Morning!

Mike Ihli is the Watermaster for basin 57C. He sent me these questions regarding recently submitted applications. This morning he called requesting more information.

Could you follow up with him about these applications?

(his phone number is 208-867-5736 if that's easier than email)

Thank you ☺

Anna

**From:** Mike Ihli [<mailto:mikeihli@gmail.com>]

**Sent:** Friday, May 31, 2019 9:41 AM

**To:** Kaiser, Anna <[Anna.Kaiser@idwr.idaho.gov](mailto:Anna.Kaiser@idwr.idaho.gov)>

**Subject:** Re: Applications for Permit No. 57-12004 & 57-12005 and Application for Transfer no. 83238

Anna,

Thank you for the heads up and information on these applications. I do have a couple of questions that I hope can be discussed via email, but if necessary we can do a phone call at your convenience or I can come over in person. I'll let you make that decision.

Regarding the King application: What is the state of the waste water being filed on now? Is it returning naturally to Castle Creek, or is it being used or going somewhere else? The point of the question is that I'm wondering that if he receives this permit, which of course technically would be junior to all other users on Castle Creek, could he refuse to turn that water loose to satisfy a call by a downstream user with a senior priority? Could he claim that as "waste water" it is not necessary to release it to fulfill other rights? I am not versed in the Department regulations regarding waste waste, so I hope you can help me.

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I hope you can help clear up these questions for me. I just need to understand this from a water master perspective because I know that once these are published, I will have questions from other water users on Castle Creek. Thank you.

On Wed, May 29, 2019 at 4:19 PM Kaiser, Anna <[Anna.Kaiser@idwr.idaho.gov](mailto:Anna.Kaiser@idwr.idaho.gov)> wrote:

May 29, 2019

MICHAEL IHLI

WATER DISTRICT 57C – CASTLE CREEK

625 S SCHOOL AVE

KUNA ID 83634

**RE: Applications for Permit Nos 57-12004 & 57-12005 and Application for Transfer No. 83238**

Dear Watermaster:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right applications. Copies of the applications are enclosed with this email for your reference. Please review the applications, complete a recommendation form, and submit your reply, if any, to this office by **June 24, 2019**.

IDWR will assume you do not object to these applications if a timely response is not received. Please contact me if you have any questions in this matter. Thank you for your help.

Sincerely,

**Anna Kaiser** | Administrative Assistant I

IDWR-Western Region

2735 W Airport Way, Boise ID 83705

(208).334.2190 | [anna.kaiser@idwr.idaho.gov](mailto:anna.kaiser@idwr.idaho.gov)