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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION FOR	)	MOTION TO DISMISS AND CANCEL
TRANSFER NO. 82640 IN THE	)	TRANSFER APPLICATION 82640
NAME OF CLINTON K. AND ESTELITA ASTON	)	
	)	
CLAIMANT	)	PROTESTANT

Protestant, Jay Norman Fonnesebeck, hereby moves to dismiss and cancel Transfer Application No. 82640 submitted by Clinton and Estelita Aston for providing false and misleading information in the application process and also during the contested hearing proceedings.

This motion is filed pursuant to the Rules of Procedure of the Idaho Department of Water Resources (IDAPA 37.01.01), 304, and statement immediately preceding signature of applicant found on page 2 of APPLICATION FOR TRANSFER OF WATER RIGHT PART 1 which reads as follows:

"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."

Signed by Mr. Clinton Aston 8/13/18.

Applicant Aston claimed and stated on page 4 section g. of same APPLICATION that:

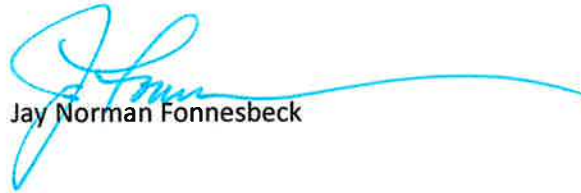
"40 acres of ground Twp 16S Rng 38 E. Section 9 was placed in Soil Bank in 1983, irrigation was discontinued, it was placed in CRP program in 1985, In 1996 CRP contract expired and ground was put back in production. In 1998 the ground was placed back in CRP program until present. Groundwater right is protected from nonuse while under CRP contract. This property has not had 5 years of nonuse without being in CRP."

During an additional hearing requested by Aston and conducted by IDWR on July 16, 2019 in Preston, Idaho, for the limited purpose of accepting evidence addressing forfeiture of acres identified and located in the NWNW of Section 9, Aston presented exhibits that contradicted his own statements made above. Aerial photographs submitted by Aston and prepared by the NRCS and used by the Farm Service Agency, clearly stated that the first CRP contract to idle these acres was awarded in 1987.

Testimony of witness and previous owner of these acres, Charlotte Schvaneveldt, testifying on behalf of Aston, stated that she was unaware that these acres were ever irrigated in the first place, and could not say why these acres were listed on claim 13-4120. She also testified that she knew of no time that any of these acres were enrolled in the Soil Bank Program which essentially made no further enrollments after 1960. She stated that she has lived on the farm which controlled these acres beginning in May of 1966.

There are other issues and misrepresentations which can be included, but this should suffice for a cancellation of Transfer 82640. To prevent any further unneeded labor by the IDWR or the Protestants, I present this motion for your acceptance.

Dated this 17th day of July, 2019



Jay Norman Fannesbeck

Certification of Service

I hereby certify that on the 17th day of July, 2019, I personally served a copy of this motion to the individuals indicated below by hand delivery.

Mr. James Cefalo, Hearing Officer, Idaho Department of Water Resources

Mr. Robert Harris, counsel for Aston

William and Shelley Spradlin, Protestant

Brief History of the USDA Soil Bank Program

J. Douglas Helms, Historian

Introduction

During the mid-1950's farm commodity surpluses were increasing and net farm income was declining. The Department of Agriculture, under Ezra Taft Benson's leadership, favored reducing production of surplus commodities by lowering price supports, but Congress resisted this approach. The USDA administration was philosophically opposed to production control through either acreage allotments or marketing quotas. But the Congress and the administration did agree on an alternative--voluntary land retirement through acreage rental payments to farmers. The Soil Bank (Title I of the Agricultural Act of 1956) had multiple purposes--reducing production of basic crops, maintaining farm income, and conserving soil.

Acreage Reserve

The Soil Bank had two components. The Acreage Reserve Program (ARP) was designed for the immediate reduction of the six basic crops--wheat, corn, cotton, tobacco, rice, and peanuts. The Conservation Reserve Program (CRP) sought an enduring reduction in cropland acreage. The one year ARP rental payments varied greatly reflected efforts to take highly productive land out of production. Rates were highest on Midwest corn and lowest on the least productive wheat land. The Acreage Reserve Program ran for three crop years, 1956-1958.

Criticism of ARP

Critics contended that ARP was an expensive means for buying reduced production and higher farm incomes. They pointed out that only the least productive lands were taken out of production. During the 1956-1957 ARP program there were no restrictions on the use of non-contracted

farmland. For instance, a farmer could contract to reduce acreage of a basic commodity crop; but increase acreage of other crops. The 1958 program required that the total number of cropland acres be reduced by the number of acres placed in the program. Also, some critics contended that large farms were best able to participate and benefitted most. The 1958 program included a \$3,000 payment limit per farm.

Conservation Reserve

The CRP sought an enduring change from cropland to pasture, range, forest, and wildlife uses. Participants could sign 3-, 5-, or 10-year contracts. In addition to annual rental payments, farmers received cost sharing for conservation measures--mainly to establish pasture, range, or trees. (See table 1.) However, provision for wildlife conservation allowed cost sharing for impoundments or flooding of cropland that had drainage systems, and for marshland management. The 10-year contracts, generally reserved for reforestation, were justified on the basis that farmers needed financial support to make a long-term land-use conversion. During 1956 and 1957, farmers could receive eighty percent cost sharing for conservation measures. Afterward, the cost-share rates were the same as those offered under the Agricultural Conservation Program.

Changes in CRP--1959 and 1960

From 1956 to 1958, CRP failed to attract enough participants to exhaust its appropriations because ARP payments were higher. The national average of ARP contracts was \$18 per acre, compared to \$10 for CRP contracts. With the end of the ARP, changes in the CRP were made to correct problems and to reflect increased emphasis on it as a means of long-term



EXHIBIT

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