

Holliday, Michael

From: Jerry Rigby <jrigby@rex-law.com>
Sent: Monday, July 16, 2018 11:29 AM
To: 'TJ Budge'; 'Kristin Moore'; Holliday, Michael
Subject: RE: City of Sugar City Transfer 82051

All,
Sorry, I have been out of the loop. I rely upon Kristin on this one and therefore, am comfortable with the draft approval as well.
Thanks
Jerry

Jerry R. Rigby
Rigby, Andrus & Rigby Law, PLLC
P.O. Box 250
Rexburg, ID 83440
208-356-3633

From: TJ Budge <tjb@racinelaw.net>
Sent: Monday, July 16, 2018 10:29 AM
To: Kristin Moore <kristin.rmea@gmail.com>; 'Holliday, Michael' <Michael.Holliday@idwr.idaho.gov>; 'Jerry Rigby RAR' <jrigby@rex-law.com>
Subject: RE: City of Sugar City Transfer 82051

Thanks Kristin.

Michael, with that clarification I am comfortable with the draft approval.

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
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From: Kristin Moore <kristin.rmea@gmail.com>
Sent: Monday, July 16, 2018 10:18 AM
To: TJ Budge <tjb@racinelaw.net>; 'Holliday, Michael' <Michael.Holliday@idwr.idaho.gov>; 'Jerry Rigby RAR' <jrigby@rex-law.com>
Subject: RE: City of Sugar City Transfer 82051

TJ,

I can confirm that they do own the shares in Teton Island and they do use them. I spoke with the canal company secretary two-three weeks ago and she confirmed that they do. And again, I talked with the public works director to get

more details. Apparently, their shares in Teton Island are delivered through the Salem Canal (not the Salem Union). Therein lies the confusion.

Our application stated that the City owns shares in Teton Island and Salem Union. The Teton Island shares are used within the City. The Salem Union shares belong to property within the City's impact area only.

Kristin Moore

Senior Water Rights Analyst

482 Constitution Way, Ste 303, Idaho Falls, ID 83402

E-Mail: kristin.rmea@gmail.com

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From: TJ Budge [<mailto:tjb@racinelaw.net>]

Sent: Monday, July 16, 2018 9:56 AM

To: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>; Jerry Rigby RAR <jrigby@rex-law.com>

Cc: Kristin M. Moore <kristin.rmea@gmail.com>

Subject: RE: City of Sugar City Transfer 82051

I understood that Sugar City was combining this groundwater right with canal shares it owned in Salem Union. Jerry, does the City own shares in Teton Island Feeder Canal Company that it could combine with this water right?

T.J. Budge

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From: Holliday, Michael <Michael.Holliday@idwr.idaho.gov>

Sent: Friday, July 13, 2018 2:52 PM

To: Jerry Rigby RAR <jrigby@rex-law.com>; TJ Budge <tjb@racinelaw.net>

Cc: Kristin M. Moore <kristin.rmea@gmail.com>

Subject: City of Sugar City Transfer 82051

Hi Jerry and TJ.

While working on the draft approval docs for this transfer, I discovered what I believe was an error on the stipulation for the withdrawal of protest. The first required condition mentioned in the stipulation is that the new "right be a combined use with Salem Union Canal Company." This does not make sense because all of Sugar City's service area is south of the

Teton River, and all of the Salem Union's digital boundary lies north of the Teton River. The Teton Island Feeder Canal Company is the only canal company that overlaps the City's service area. I talked with Kristin about this, and she was in agreement that the wrong company had been identified by the City.

Rather than amend the stipulation, I thought I would prepare a draft transfer approval document for circulation. If all of your issues of protest have been addressed in the draft transfer approval conditions, then we can forge ahead. Please let me know if the attached draft transfer approval would adequately address your concerns. Thanks.

Michael Holliday
Water Rights Supervisor
Phone: 208-525-7161
Fax: 208-525-7177

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 82051**

This is to certify that: CITY OF SUGAR CITY
10 E CENTER ST
PO BOX 56
SUGAR CITY, ID 83448

DRAFT

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>
22-7225	WR/DECREE	4/11/1977	2.920 cfs	511.0 af	N/A	146.0	GROUND WATER

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>
22-7225	YES	YES	YES	YES	NO	YES

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>
22-7225	22-14304	0.040 cfs	7.0 af	2.0	N/A	22-7225	2.880 cfs	504.0 af	N/A	144.0
COMBINED TOTALS		0.040 cfs	7.0 af	2.0	N/A		N/A	N/A	N/A	N/A

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 _____ day of _____, _____.

Chief, Water Allocation Bureau

WATER RIGHT NO. 22-7225
As Modified by Transfer No. 82051

DRAFT

In accordance with the approval of Transfer No. 82051, Water Right No. 22-7225 is now described as follows:

Right Holder: DOUGLAS K SAKOTA AND
KENNETH T SAKOTA
PO BOX 163
REXBURG, ID 83440

Priority Date: 4/11/1977

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
IRRIGATION	04/01	to 10/15	2.880 cfs	504.0 af
			2.880 cfs	504.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER SENE Sec 18 Twp 06N Rge 40E MADISON 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	
06N	40E	18	29.0	38.0	39.0	38.0													144.0

POU Total Acres: 144.0

CONDITIONS OF APPROVAL

1. Use of this right is combined with water from Teton Island Canal & Fremont Madison Irrigation District.
2. The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
3. Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 82051

WATER RIGHT NO. 22-14304

As Modified by Transfer No. 82051

In accordance with the approval of Transfer No. 82051, Water Right No. 22-14304 is now described as follows:

Right Holder: DOUGLAS K SAKOTA AND
KENNETH T SAKOTA
PO BOX 163
REXBURG, ID 83440

DRAFT

Priority Date: 4/11/1977

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
MUNICIPAL	04/01	to 10/15	0.040 cfs	7.0 af
			0.040 cfs	7.0 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSE	Sec 4	Twp 06N Rge 40E	MADISON County
GROUND WATER	NWSE	Sec 4	Twp 06N Rge 40E	MADISON County
GROUND WATER	SWSW	Sec 4	Twp 06N Rge 40E	MADISON County
GROUND WATER	L2 (NWNE)	Sec 4	Twp 06N Rge 40E	MADISON County
GROUND WATER	SWNW	Sec 9	Twp 06N Rge 40E	MADISON County

CONDITIONS OF APPROVAL

1. Place of use is within the service area of the City of Sugar City municipal water supply system as provided for under Idaho Law.
2. A map generally depicting the service area for this water right at the time of this approval is attached to this document for illustrative purposes.
3. Municipal use is for irrigation of 2.0 acres within the authorized place of use in a single irrigation season.
4. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
5. 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. 100.
6. A lockable device subject to the approval of the Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
7. Prior to diversion and use of water under Transfer approval 82051, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion, in accordance with Department specifications.

Transfer No. 82051

WATER RIGHT NO. 22-14304

As Modified by Transfer No. 82051

DRAFT

CONDITIONS OF APPROVAL

8. Upon specific notification of the Department, the right holder shall install and maintain data loggers to record water usage information at the authorized point(s) of diversion in accordance with Department specifications.
9. The period of use for the irrigation use described in this approval may be extended to an ending date of 10/31 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water after 10/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than July 31, 2012.
10. Use of this right is combined with water from Teton Island Feeder Canal Co.
11. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
12. This right does not grant any right-of-way or easement across the land of another.
13. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
14. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
15. 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 determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.