

Mathews, Kerrie

From: TJ Budge <tjb@racinelaw.net>
Sent: Thursday, December 28, 2017 10:45 AM
To: Mathews, Kerrie
Subject: RE: Kinport Management

Kerrie,

The figures in your amended draft look correct.

Thank you.

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
P: (208) 232-6101 | F: (208) 232-6109 | [racinelaw.net](mailto:tjb@racinelaw.net)

Assistant: Tessa Sparrow | (208) 232-6101 | tps@racinelaw.net

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From: Mathews, Kerrie [mailto:Kerrie.Mathews@idwr.idaho.gov]
Sent: Thursday, December 28, 2017 9:28 AM
To: TJ Budge <tjb@racinelaw.net>
Subject: RE: Kinport Management

TJ;

Hmm... Ok – let's try this:

You do not put the place of use and point of diversion for the left over portion (192 acres) of water right 29-2470 on page 3 of the transfer application.

This page is ONLY for the split off portion. And should only list the point of diversion and place of use for the 91 acres..

The Department automatically leaves the rest of the water right alone, minus the acreage indicated in part 2 page 5 of the transfer application.

It doesn't look like you are trying to re-arrange or change the point of diversion or place of use for the 192 acres, so no further action is necessary on that portion.

I have attached an amended application for your reference. Please review, this splits 91 acres off of water right 29-2470 and moves the split portion to a new place of use with a new point of diversion. I have not double checked the numbers – but if you would please review this correction.. If it looks alright please reply to this email and I will move forward and get this into advertising.

Mathews, Kerrie

From: TJ Budge <tjb@racinelaw.net>
Sent: Thursday, December 28, 2017 9:51 AM
To: Mathews, Kerrie
Subject: RE: Kinport Management
Attachments: RE: transfer application

Kerrie,

I am happy to make that change. I will get this done today.

I feel compelled to point out that the transfer application as well as the instructions are ambiguous in terms of whether Part B should include a description of the full right or only the portion being transferred. I have in the past been advised by IDWR agents that all PODs and the full POU must be described in Part B.3. The text of the transfer application as well as the IDWR instructions support this. For example, Part B.1 requires the full diversion rate be listed even if only a portion is being transferred. In addition, Part B.2 and Part B.3 say nothing about describing only the portion being transferred. They simply instruct the applicant to list the POD and POU. Nor do the instructions explain that only the portion being transferred should be described, with the unchanged portion left out. Thus, the verbiage in the application and the instructions indicate that all PODs and the full POU be described in Parts B.2 and B.3, not just the changed portion.

That said, I agree with you that it makes more sense to describe only the changed portion of the water right, or to at least distinguish between the changed and unchanged portions. I brought this up with Pam Skaggs a few months ago and suggested a revision to the transfer application to accomplish this. I've attached our correspondence which you may find interesting. If there is anything you can do facilitate a revision to the transfer application or at least revised instructions to provide clear direction as to whether Parts B.2 and B.3 should describe all PODs and the full POU or just the transferred portion that would be greatly appreciated.

Thanks,

T.J. Budge

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Sent: Thursday, December 28, 2017 9:28 AM

To: TJ Budge <tjb@racinelaw.net>

Subject: RE: Kinport Management

TJ;

Hmm... Ok – let's try this:

Mathews, Kerrie

From: Mathews, Kerrie
Sent: Thursday, December 28, 2017 9:28 AM
To: 'TJ Budge'
Subject: RE: Kinport Management
Attachments: Amended App.pdf

TJ;

Hmm... Ok – let's try this:

You do not put the place of use and point of diversion for the left over portion (192 acres) of water right 29-2470 on page 3 of the transfer application.

This page is ONLY for the split off portion. And should only list the point of diversion and place of use for the 91 acres..

The Department automatically leaves the rest of the water right alone, minus the acreage indicated in part 2 page 5 of the transfer application.

It doesn't look like you are trying to re-arrange or change the point of diversion or place of use for the 192 acres, so no further action is necessary on that portion.

I have attached an amended application for your reference. Please review, this splits 91 acres off of water right 29-2470 and moves the split portion to a new place of use with a new point of diversion. I have not double checked the numbers – but if you would please review this correction.. If it looks alright please reply to this email and I will move forward and get this into advertising.

Thank you,

Kerrie Mathews

"If life doesn't offer a game worth playing, then invent a new one."

-Anthony J. D'Angelo

From: TJ Budge [mailto:tjb@racinelaw.net]
Sent: Wednesday, December 27, 2017 5:14 PM
To: Mathews, Kerrie <Kerrie.Mathews@idwr.idaho.gov>
Subject: RE: Kinport Management

Here is a scanned copy of the Second Amended Transfer Application with my signature.

Thanks,

T.J. Budge
RACINE OLSON

Mathews, Kerrie

From: TJ Budge <tjb@racinelaw.net>
Sent: Wednesday, December 27, 2017 3:03 PM
To: Mathews, Kerrie
Subject: RE: Kinport Management
Attachments: Map - Transfer To.pdf; Map - Transfer From.pdf; 20171217 Second Amended Transfer Application.pdf

Kerrie,

Attached is a second amended transfer application that I believe addresses each item identified in your letter dated November 30, 2017.

With respect to question 1, a 91 acre portion of the place of use is being transferred. The acres being moved are identified in blue in the attached "Transfer From" map. The new place of use of these acres is identified in yellow in the attached "Transfer To" map.

With respect to the question 4, we anticipate filling in the hole in the middle of the pivot with another water right. Until that is approved, the hole will not be irrigated.

With respect to question 6, your question appears to refer to the SWNW as opposed to the SWSW. With respect to the SWNW we propose transferring 28 acres as shown on page 5 of the application.

Let me know if you have any further questions. Again, I apologize for not getting this response to you sooner.

Hope you have a great new year!

Sincerely,

T.J. Budge
RACINE OLSON
201 E. Center St. | P.O. Box 1391 | Pocatello, Idaho 83204
P: (208) 232-6101 | F: (208) 232-6109 | [racinelaw.net](mailto:tjb@racinelaw.net)

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From: Mathews, Kerrie [mailto:Kerrie.Mathews@idwr.idaho.gov]
Sent: Thursday, November 30, 2017 10:51 AM
To: TJ Budge <tjb@racinelaw.net>
Subject: Kinport Management

Good Morning:

Attached, please find your copy of correspondence that was mailed to Kinport Management today. If you have any questions, please let me know.

Mathews, Kerrie

From: Mathews, Kerrie
Sent: Tuesday, December 26, 2017 3:06 PM
To: 'TJ Budge'; Jordan, Blake
Subject: Kinport Management
Attachments: DOC017.pdf

This will serve as your final reminder:

On November 28, 2017 I sent you an email requesting more information.

On November 30, 2017 I sent you and your applicant a snail mail requesting further information.

Both are attached for your reference. Unless I hear from you by December 30, 2017 Your application will be returned and a refund issued.

Sincerely,

Kerrie Mathews

Idaho Department of Water Resources

208-525-7161

"Life is not meant to be easy, my child; but take courage -- it can be delightful."

-George Bernard Shaw



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region • 900 North Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN

Director

November 30, 2017

Kinport Management
PO BOX 2082
Pocatello ID 83206

To Whom it May Concern;

The Department received your transfer application, I am in the process of reviewing this application for you.. During the review process, a couple of questions/issues came up that will need to be addressed.

1. It appears that you are trying to split off 91 acres and move those acres to a new place of use with a new point of diversion.
 - a. The split off portion (POU & POD) of the right should be described on page 3 of the application and the acres that will be dried up are described on page 5.
 - b. The remaining portion of the right is left where it is, with the same point of diversion. If you wish to rearrange the place of use for the remaining portion you must file a second transfer. This is true in all cases except when there is one system – with wells and mainlines interconnected.
2. Diversion rates listed on the transfer application can only be to the second decimal point. (1.46 for example)
3. Acreage on the transfer application can only be listed to the first decimal point. (22.8 for example)
4. I am attaching a copy of the map of the new place of use that was received with the application. Could you please explain why there is a hole in the middle of the pivot?
5. The existing water right lists 34 acres in the NWNW quarter of Sec 31, T10S, R34E. However, your application asks to dry up 37 acres in this quarter.. This is not possible.
6. The existing water right list 28 acres in the SWSW quarter of Sec 31, T10S, R34E. You request on page 5 that 27 acres be dried up – Is this correct?

If you could take a moment and correct or address the issues identified in this letter, I would appreciate it. I will continue to hold your application until 12/30/2017. If you have any questions, please let me know.

Sincerely,


Kerrie Mathews

Cc: TJ Budge

Mathews, Kerrie

From: Mathews, Kerrie
Sent: Tuesday, November 28, 2017 5:07 PM
To: 'TJ Budge'
Subject: Kingport Management - Amended Transfer Application

Good Evening TJ:

I was given the amended transfer application for Kingport Management, last Thursday.. Upon my initial review I have a couple questions..

When a portion of a water right is split from an existing water right – the place of use and point of diversion for the split portion are defined on page 3.

Question #1 is the Point of Diversion listed on #3 page 3 of the Transfer application the point of diversion for the 91 acres that are being split off?

Question #2 is the Place of Use listed on #4 page 3 of the Transfer application the place of use for the 91 acres that are being split off? (it doesn't appear to be so..)

Question #3 the acreage listed on page 5 is where the split portion of the water should come from and these acres will be dried up.

If you could let me know, I would appreciate it.

Thank you,

Kerrie Mathews

Idaho Department of Water Resources
208-525-7161

"Life is not meant to be easy, my child; but take courage -- it can be delightful."
-George Bernard Shaw