

MEMORANDUM

TO: WR file 31-7084

FROM:  Clay Webster

DATE: November 25, 2014

RE: WSB 2014 Rental Applications for Kirk Egbert

On November 24, 2014 I received a phone message forwarded from Cherie Palmer to contact Keith Wilson at Rocky Mountain Environmental about Kirk Egbert rental applications. While on the phone with Mr. Wilson our system went down and we terminated the conversation.

On November 25, 2014 Cherie Palmer and I had a phone conference with Keith Wilson to get clarification on whether he was working on a 2014 application that was denied in October or if he was working on a 2015 rental application. Keith stated that he wasn't sure but his impression was that he was working on the 2014 application to make his client whole for the season. We informed him that we could not accept a new application for the 2014 after the end of the irrigation season. Cherie asked him to expedite any applications for Mr. Egbert for the 2015 season to keep from running into the same issue. He said that he would contact his client and proceed with the 2015 applications.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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GARY SPACKMAN
Director

C.L. "BUTCH" OTTER
Governor

October 31, 2014

KIRK EGBERT
1402 E 1300 N
PO BOX 87
TERRETON ID 83450

RE: APPLICATIONS TO RENT WATER FROM THE WATER SUPPLY BANK

Dear Applicant:

On September 8, 2014, the Department of Water Resources (Department) received three applications to rent water from the Water Supply Bank. Upon review of your applications it was noted that these applications were submitted without any analysis to evaluate depletions in the Eastern Snake Plains Aquifer (ESPA).

In accordance with Transfer Processing Memorandum # 24,

Except as provided below, if the application for transfer proposes to move the point of diversion for a water right to divert and use ground water within the Eastern Snake Plain Aquifer (ESPA) including any modeled tributary aquifers, the applicant must submit an attachment with the application that sets forth the time and series of calculated depletions (transient to steady-state) to reaches of the Snake River that are hydraulically-connected to the ESPA using or based on the department's current ground water model for the ESPA, or other equivalent analysis acceptable to the department.

It also states,

If the application for transfer proposes to move or add a point of diversion within or adjacent to the model cell for the existing point(s) of diversion, the attachment described above is not required when the application is submitted.

The Department ran the modeling on the 59 acre proposal submitted as a courtesy. The results showed mitigation was required using the rights identified. This proposal's points of diversion were not in adjacent modeling cells from the leased rights identified. The other two applications had no water rights identified.

The Department is returning your 3 applications to rent water from the Water Supply Bank (bank).

This letter is notice that the enclosed applications for rental of water are **denied** for the following reasons:

- The applications propose to change the points of diversion for water rights affecting the Eastern Snake Plain Aquifer (ESPA), the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River was not provided.
- An injury analysis was not completed for the proposed place of use and point of diversion. You must have demonstrated how your proposals will not injure nearby water users.

Any use associated with your proposed rental request is considered unauthorized and, if occurring, will be subject to any necessary enforcement action.

If you wish to rent water in the future, please reapply using new forms from the Department's website at www.idwr.idaho.gov. If you have any questions regarding this matter, please contact me at (208) 287-4944.

Sincerely,



Cherie Palmer
Water Rights Supervisor
WSB Process Point of Contact

Enclosure: 3 Rental Applications
Modeling Ran by the Department

c James Cefalo – IDWR Eastern Region Office (without attachments)

MEMORANDUM

To: Water Right(s) 31-07084, 31-07267A and 31-10964A (**Returned Application Incomplete**)

From: Clay Webster

Date: October 23, 2014

Re: Review & Analysis of Application to Rent Water from the State Water Supply Bank

PURPOSE/NARRATIVE: The department received an application to rent irrigation to cover 59 Acres 07N 37E sections 1 and 2 from Kirk Egbert on September 8, 2014. The applicant wishes to use his own water rights which were partially leased into the bank for the 2014 season.

This rental application is to cover a shortfall caused by incremental development schedule listed on WRs 31-11410, 31-11414, 31-11428, 31-11947 and 31-11954

This rental would use all of the leased water for rights 31-7267A and 31-10964A. It will also use 18 af of the lease for 31-7084 for the 2014 season.

AUTHORITY TO FILE: This application was signed by Kirk Egbert. According to the county taxlot data in ArcMap he is the owner of the proposed POU and the PODs.

WATER RIGHT VALIDITY: Portions of these rights were leased into the bank in 2014. 2014 satellite imagery indicates that the lessor is complying with his lease contract.

INJURY TO OTHER WATER RIGHTS: According to the modeling and the Mitigation Analysis Tool, mitigation would be required for this rental to move forward. The department normally does not do modeling and would have returned this rental upon receipt. However, I was asked by the WSB coordinator to model this request to expedite processing see email dated 10/16/2014. **With the need for mitigation and no modeling provided by the applicant, we will have to return this application as incomplete on the grounds that it would cause injury as it was submitted.**

60.0 af of 31-07084 was leased to the WSB from 2007-2013.

39.0 af of 31-07084 was leased to the WSB from 2014-2018.

180.3 af of 31-07267A and 31-10964A were leased to the WSB from 2007 through 2008.

133.0 af of 31-07267A and 31-10964A were leased to the WSB from 2008 through 2013.

185.5 af of 31-07267A and 31-10964A were leased to the WSB from 2014-2018.

ENLARGEMENT OF USE: No enlargement is evident through the rental.

LOCAL PUBLIC INTEREST: Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES: The rental appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS: The rented right(s) are subject to Water District # 110.

ENHANCED GROUND-WATER RIGHTS TRANSFER

UNIVERSITY OF IDAHO - IDAHO WATER RESOURCES RESEARCH INSTITUTE

IDAHO DEPARTMENT OF AGRICULTURE

Cells this color are set up for user entries

ENTER STARTING DATE FOR SIMULATION. THEN PUSH "UPDATE DATES" BUTTON

TRANSFER NO:

YEAR

1959

TRANSFER NAME

SEASON

WINTER

Egbert

ENTER CELL LOCATIONS:

	'TO' CELL	'FROM1' CELL	'FROM2' CELL	'FROM3' CELL
ROW	44	46	43	46
COLUMN	176	156	152	158

TRIMESTER OF ACTIVITY	TO WELL	FROM1 WELL		FROM2 WELL		FROM3 WELL	
	Projected Use AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER	With Transfer AF/TRIMESTER	Without Transfer AF/TRIMESTER
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SPR 1960	0	62	62	0	0	0	0
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WIN 1960	0	62	62	0	0	0	0
SPR 1961	0	62	62	0	0	0	0
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WIN 1962	0	62	62	0	0	0	0
SPR 1963	0	62	62	0	0	0	0
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WIN 1964	0	62	62	0	0	0	0
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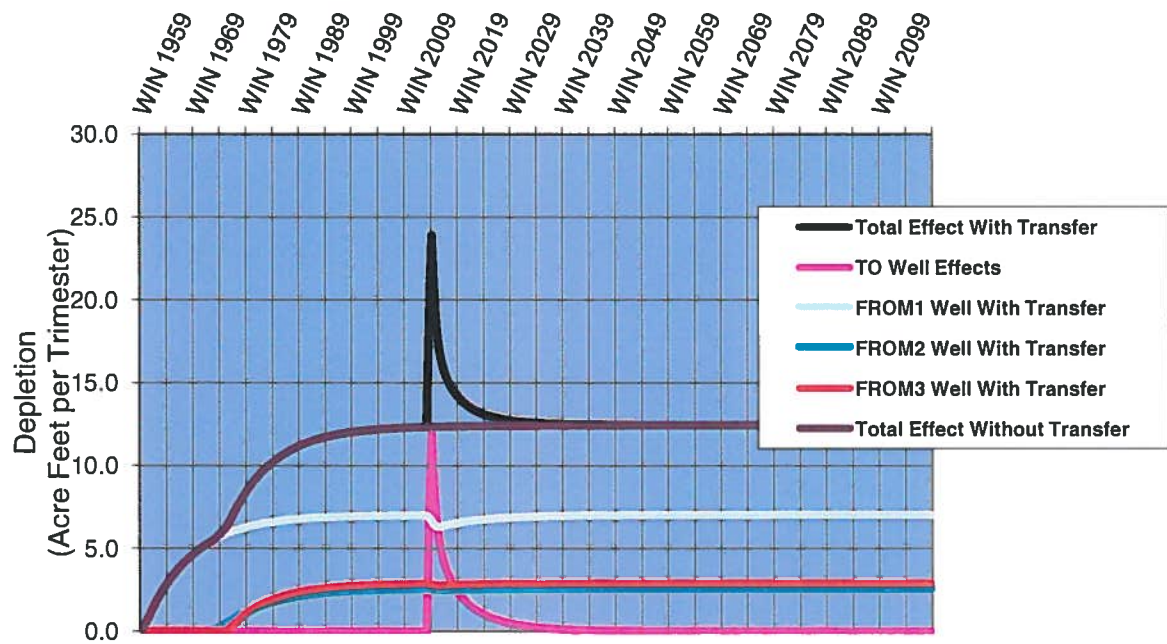
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WIN 2070	0	62	62	20	20	19	19
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SUM 2071	0	62	62	20	20	19	19
WIN 2071	0	62	62	20	20	19	19

SPR 2072	0	62	62	20	20	19	19
SUM 2072	0	62	62	20	20	19	19
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WIN 2083	0	62	62	20	20	19	19
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WIN 2084	0	62	62	20	20	19	19
SPR 2085	0	62	62	20	20	19	19
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WIN 2089	0	62	62	20	20	19	19
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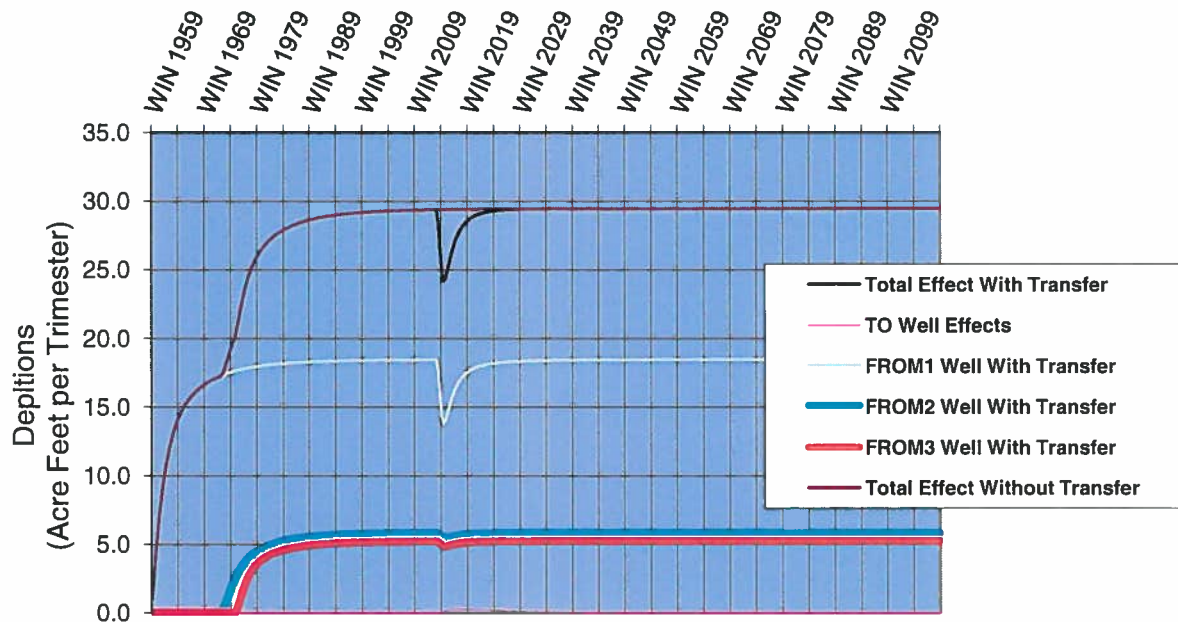
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WIN 2105	0	62	62	20	20	19	19
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WIN 2107	0	62	62	20	20	19	19
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WIN 2108	0	62	62	20	20	19	19
SPR 2109	0	62	62	20	20	19	19
SUM 2109	0	62	62	20	20	19	19

Hydrologic Response--Ashton to Rexburg
Customer Name: **Transfer No:**

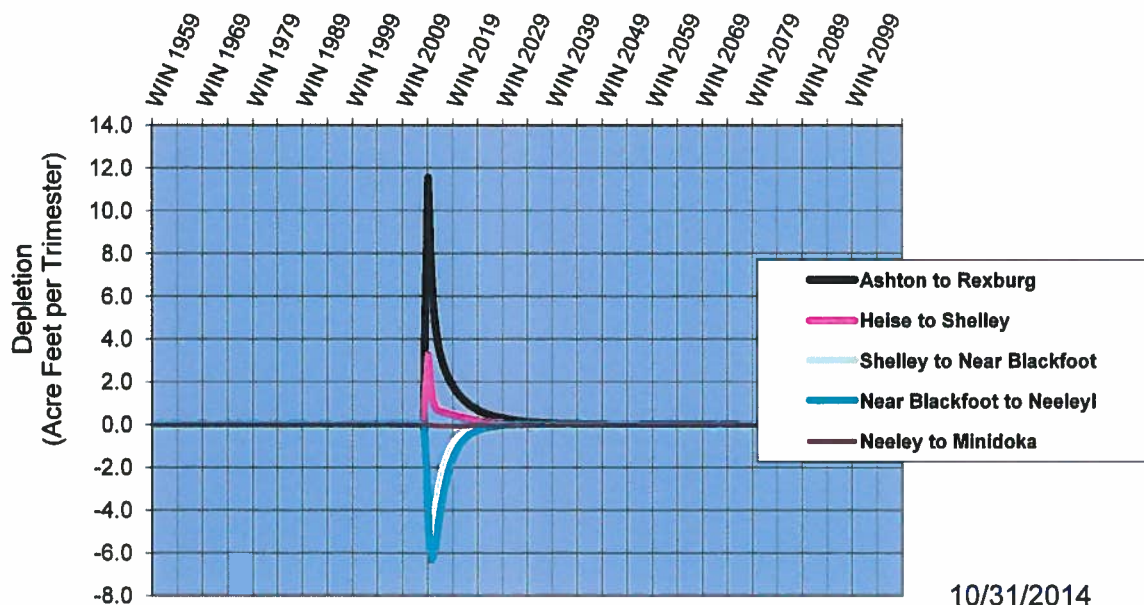


Hydrologic Response--Shelley to Near Blackfoot

Customer Name: Transfer No:



Net Transfer Effect Above Milner (Total Effect With Transfer - Total Effect Without Transfer)



10/31/2014
Version 3.1

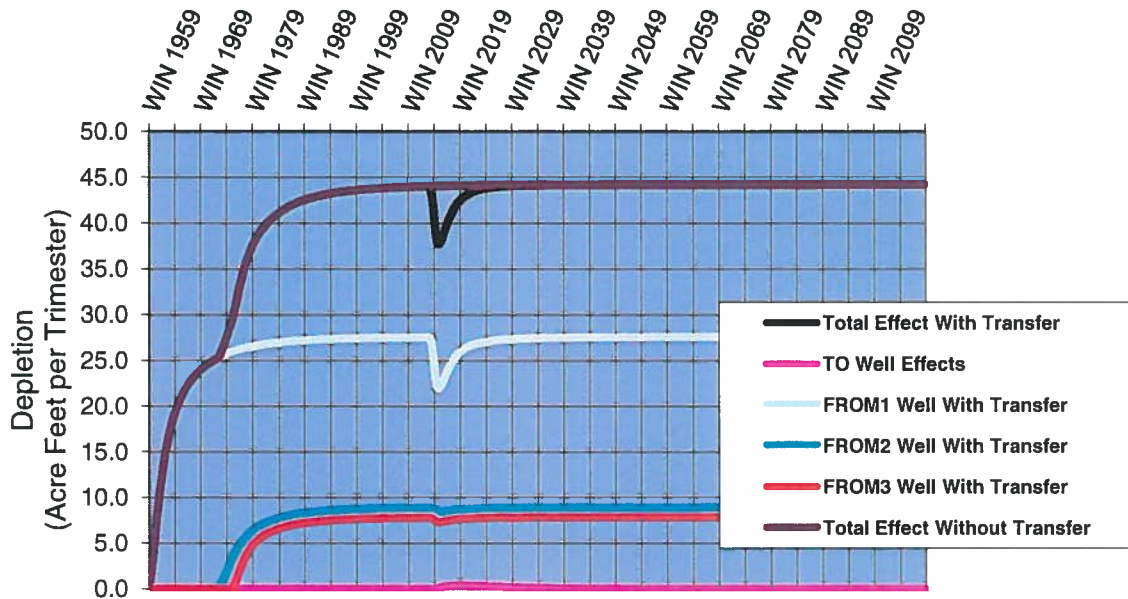
Customer Name: **Egbert**

Transfer No:

Hydrologic Response-- Near Blackfoot to Neeley

Customer Name:

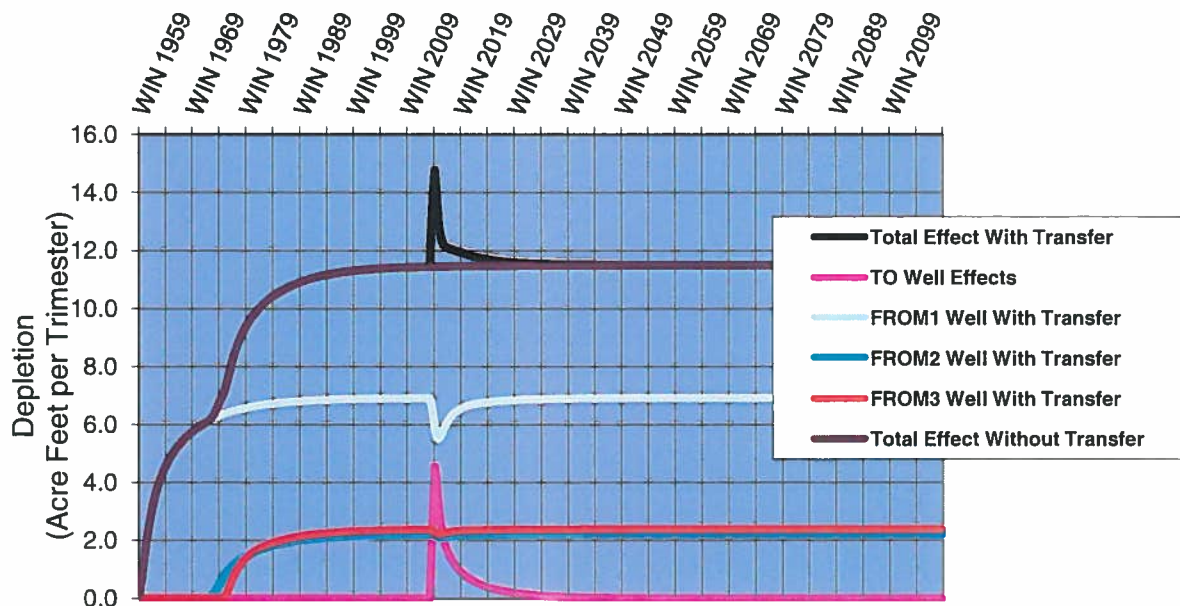
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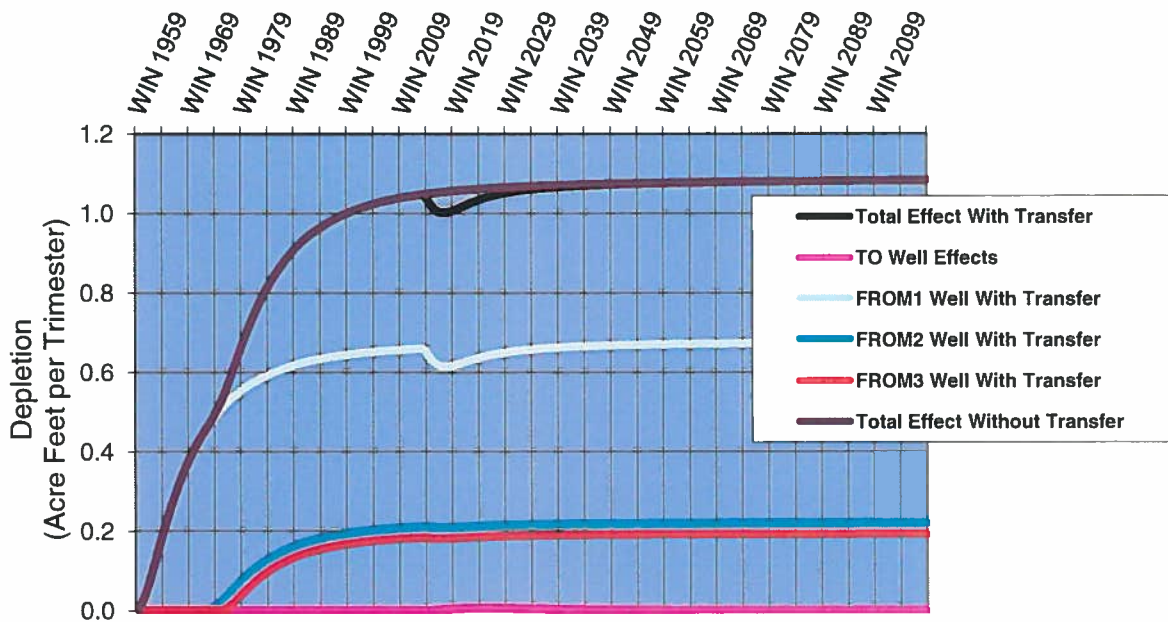
Hydrologic Response--Heise to Shelley

Customer Name:

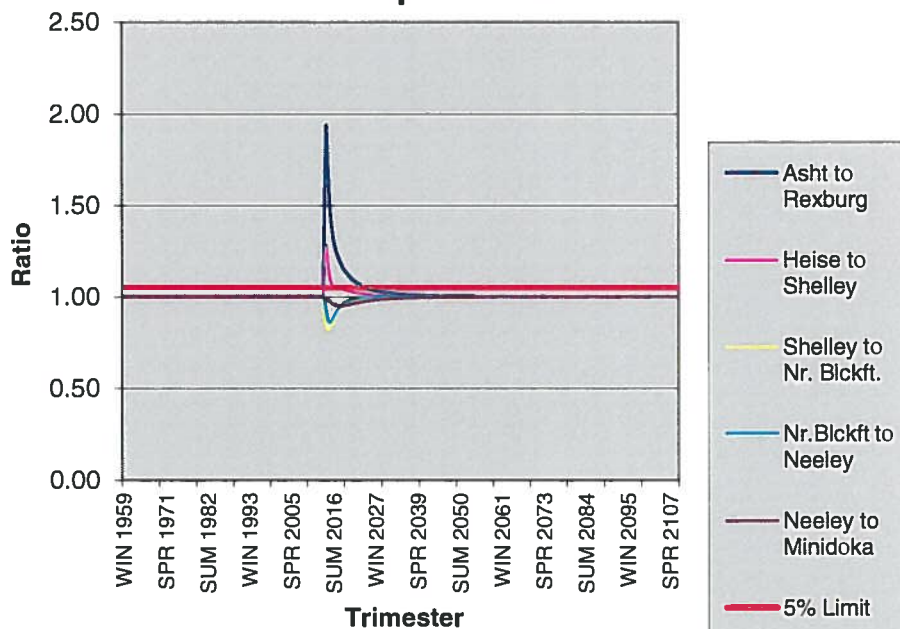
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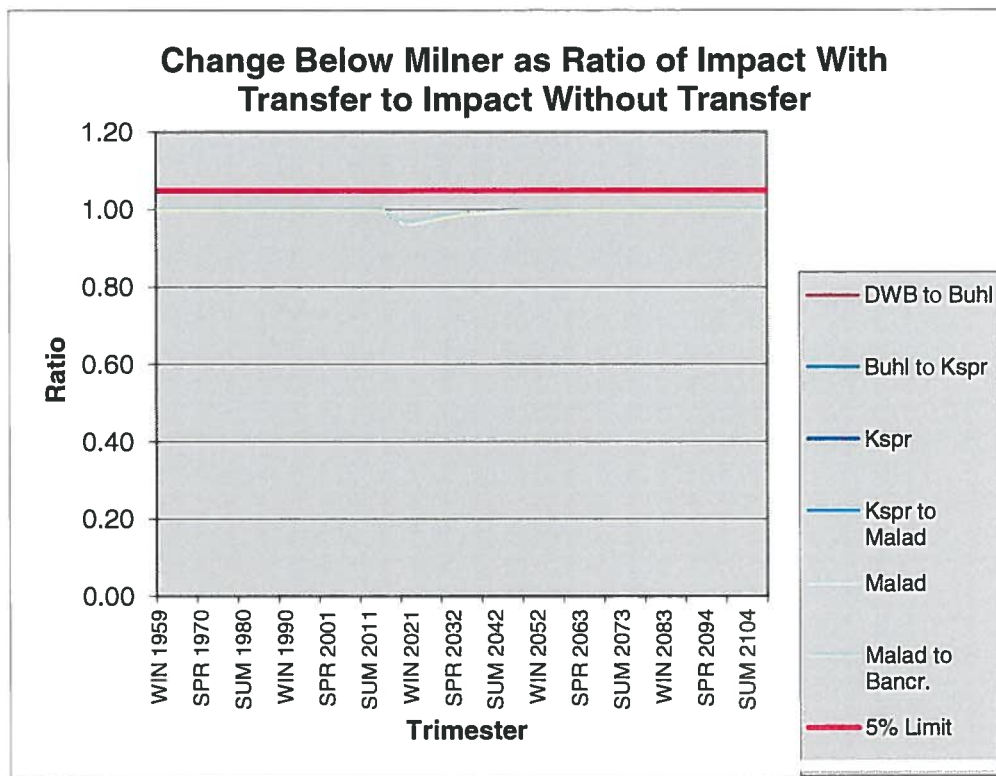


Hydrologic Response-- Neeley to Minidoka Customer Name: Transfer No:



Change Above Milner as Ratio of Impact With Transfer to Impact Without Transfer





Mitigation Analysis Period: **Transient**

One-Way Analysis of Independent Transfers

New Water Right (GModel):

WRI No	Div	Rate	Con Vol	No of W	Priority	ROD	Dedicated Vol	Model
(CSE)	(AFU)	(AFU)						
Transfer 1: Proposed Steady State Impacts following Transfer								
777	777	275.0	08.0	1/1/1960	0528E-3	275.0	01.0	SP062075
777	777	275.0	08.0	1/1/1960	0528E-3	275.0	01.0	SP062075
Transfer 1: Worst Case Transient State Impacts following Transfer								
777	777	275.0	08.0	1/1/1960	0528E-3	275.0	01.0	SP062075
777	777	275.0	08.0	1/1/1960	0528E-3	275.0	01.0	SP062075

Impact by Reach (AF/Trimester)											
Auction to		Rebate to		Shelley to		New Right to		Realty to		Dev. WRI to	
Reimb.	Shelley	Reimb.	Shelley	New Right	Realty	Shelley	Realty	Buhl	Kspr	Kspr to	Malad
12.47	11.51	29.49	44.25	1.08	1.12	0.43	0.27	0.03	0.26	0.01	
12.47	11.51	29.49	44.25	1.08	1.12	0.43	0.27	0.03	0.26	0.01	
12.47	11.51	29.49	44.25	1.08	1.12	0.43	0.27	0.03	0.26	0.01	
23.99	14.77	29.49	44.25	1.08	1.12	0.43	0.27	0.03	0.26	0.01	

Steady State Analysis											
Mitigation Check 1 - >10% of Historical											
Mitigation Check 2 - >2 AF/Tr											
Mitigation Check 3 - >10% of Total											
Mitigation Required?											
Mitigation Vpt. Req'd (ac-ft)											
0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Transient State Analysis											
Mitigation Check 1 - >10% of Historical											
Mitigation Check 2 - >2 AF/Tr											
Mitigation Required?											
Mitigation Vpt. Req'd (ac-ft)											
91.7%	28.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
11.4	3.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
YES	YES	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
11.4	3.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Read Me

Blank Head

Webster, Clay

From: Buyer, Remington
Sent: Thursday, October 16, 2014 10:22 AM
To: Cefalo, James
Cc: Webster, Clay; Palmer, Cherie
Subject: Bank Transactions

James,

Following up on Mr. Egbert's rental proposals currently before the Bank:

- He has submitted a rental application for all the water rights he leased into the Bank earlier this year,
- He has submitted two additional rental applications to cover his use of water in 6N 34E S36 and 8N 37E S33,
- There is no rental application for an NOV in 6N 35E S28,
- Mr. Egbert did not provide modeling with his rentals, the Bank will run the numbers for him this year.

On a separate matter, Tanner Lane LLC has proposed to lease into and rent out from the Bank a groundwater right belonging to Mr. Bryce Fielding (27-7003). Mr. Fielding confirmed to me that this right has not been utilized since the 1970s. It was decreed in 2006, putting it past the five year forfeiture review period. I am concerned this right has been abandoned or forfeited and is ineligible for lease into the Bank. Mr. Fielding informed me that he has been working with you on this right? Do you have any information to confirm the validity of this right?

Thanks,

Remington
287-4918

RECEIVED**SEP 08 2014****DEPARTMENT OF
WATER RESOURCES****STATE OF IDAHO
WATER RESOURCE BOARD****APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK**

★ This rental should be matched
up with the WSB leases for
rights 31-7084, 31-7569
and 31-7267A/
31-10964A

This application must be prepared in accordance with the minimum requirements listed to be acceptable for processing by the Department. Incomplete applications will be returned.

Name of Renter(s) Kirk EgbertMailing Address 1410 East 1300 North, Terreton, ID 83450Phone 208-663-4505Email kkegbert1985@yahoo.com**DENIED****A. DESCRIPTION OF WATER SOUGHT FOR RENT**

1. Maximum Flow Rate (cfs) 1.18 cfs Maximum Volume (ac-ft) 206.5 af Nature of Use Irrigation Period of Use 4/1 to 10/31

Total: 1.18 cfs 206.5 af

2. Source of water Ground Water tributary to _____

3. Point(s) of Diversion:

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County
07N	37E	1	L4		NW	NW	Jefferson County
07N	37	2	L2		NW	NE	Jefferson County

4. Lands to be irrigated or place of use:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	37E	1					X	X	X	X									
		2	X	X	X	X													

If the use is for irrigation, show total number of acres proposed through rental.

Total Acres 59.0

B. OWNERSHIP

1. Do you own the land at the proposed point of diversion?

Yes ☒ No ☐

If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed point of diversion. _____

2. Do you own the land at the proposed place of use?

Yes ☒ No ☐

If no, list owner, contact information, and attach a copy of the agreement or other written authority to use the proposed place of use. _____

C. MAP

Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described by this application in section A. Include legal description labels.

SUPPORT DATA

IN FILE # 31-7084

D. GENERAL INFORMATION

1. Please provide a description of the proposed diversion system.

Wells and pumps to center pivots. This rental is intended to cover the shortfall caused by the incremental development schedule listed on the water rights.

2. Describe any other water rights diverted through the same point(s) of diversion or used for the same purpose(s) as described above.
31-11410, 31-11414, 31-11428, 31-11947, 31-11954

3. Will the proposed place of use receive water from any other source?

Yes ☐ No ☒

If yes, describe.

4. If the proposed use is not for irrigation, please provide a detailed description of the proposed use and how you determined the amount of water required. Attach additional sheets if needed.

5. Are there any other applications pending before the Department, such as an application for permit or transfer, for the same use(s) proposed by this rental?

Yes ☐ No ☒

If yes, describe.

6. Was this rental application submitted in response to a Notice of Violation or a pending Notice of Violation? Yes ☐ No ☒

If yes, describe. This is a WSB Rental that has been approved in the past (reduced to account for additional acres available from the water rights listed above).

E. RENTAL TERM

Do you wish to rent water from the Board's bank for more than one (1) year?

Yes ☐ No ☒

If yes, please specify the number of years desired through proposed rental.

I hereby assert that 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.

If this application is approved, the applicant agrees to the following:

1. The use of water under this agreement shall be subject to the provisions of Section 42-1766, Idaho Code.
2. Renter shall comply with all applicable state and federal laws while using water under this agreement.
3. Renter shall hold the Board, the Director, and the state of Idaho harmless from all liability on account of negligent acts of the renter.
4. The Director may terminate diversion of water if the Director determines there is not a sufficient water supply for the priority of the right or portion thereof being rented.
5. Failure of the renter to comply with the conditions of this agreement is cause for the Director to rescind approval of the rental agreement.
6. Renter is not authorized to use water proposed by this application until the rental fees are paid in full and the renter receives an executed copy of the agreement signed by the Director.

Signature of Applicant

Printed Name and Title*

Date

Signature of Applicant

Printed Name and Title*

Date

*Please provide title of signatory if signing on behalf of a company or organization or with power of attorney

Mail to: Idaho Department of Water Resources, P.O. Box 83720, Boise, ID 83720-0098

 Water Right POU
 Township/Range
 Sections
 Quarter Quarters

0 1,000 2,000 Feet

