

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 76211)	
IN THE NAME OF MIDDLETON MILL)	PRELIMINARY ORDER
DITCH CO & MIDDLETON IRRIGATION)	CORRECTING TRANSFER
ASSN INC)	APPROVAL CONDITION OF
_____)	WATER RIGHT 63-161X

This matter having come before the Department of Water Resources (Department) as a result of an application for transfer of water rights, the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. A partial decree for water right 63-161X was issued by the Snake River Basin Adjudication (SRBA) court February 6, 2008 with a priority date of May 1, 1866 for a quantity of 0.40 cfs for irrigation of 9,404 acres with water rights 63-124N, 63-125G, 63-126E, 63-168B, 63-168D, 63-173, 63-198AC, 63-254, 63-255 and 63-370 within the boundary of the Middleton Mill Ditch Company and Middleton Irrigation Association.
2. On April 16, 2010, transfer no. 76211 (transfer) was approved as a preliminary order in the name of Middleton Mill Ditch Company and Middleton Irrigation Association. The transfer changed the nature of use of a 22.5 acre portion of water rights 63-125G and 63-198AC to diversion to storage and aesthetic storage providing the consumptive use portion for numerous ponds under two new applications filed by separate entities.
3. Water rights 63-124N, 63-126E, 63-161X, 63-168B, 63-168D, 63-173, 63-254, 63-255 and 63-370 were included in the transfer approval as associated water rights to update conditions. The transfer reduced the 9,404 acres of authorized irrigation under all the combined water rights to a total of 9381.5 acres.
4. The transfer approval included a condition of approval on water right 63-161X that was common to the other water rights. The SRBA partial decree for water right 63-161X did not include transfer condition no. 3 as follows:
 3. This right shall receive 100 percent of its decreed quantity until the natural flow of the waters of the Boise River shall decrease so that all rights containing this condition cannot receive 100 percent of their decreed quantities, at which time this right and the other rights containing this condition shall first be cut to 75 percent of their decreed quantities, as the natural flow of the river decreases, beginning with the latest rights containing this condition and preceding to the earliest rights containing this condition in the order of their priority dates, and after all of the rights containing this condition

shall have been reduced to 75 percent of their decreed quantities, should the natural flow of the waters of the river decrease below the amount necessary to supply 75 percent of those decreed quantities, then this right and the other rights containing this condition, beginning with the latest and preceding to the earliest, shall be reduced to 60 percent of their decreed quantities.

CONCLUSIONS OF LAW

1. Conditions of approval no. 3 on transfer approval 76211 for water right 63-161X was added to this right in error through processing. The condition was not an original condition of the SRBA partial decree for this water right prior to the transfer.
2. The transfer approval should accurately describe each established water right as changed by the transfer pursuant to Idaho Code § 42-222.
3. The Department should correct water right 63-161X by removing transfer approval condition no. 3 that was added to the water right in error.

ORDER

IT IS HEREBY ORDERED that water right 63-161X is CORRECTED and condition of approval no. 3 on transfer approval 76211 for water right 63-161X is removed.

DATED this 26th day of August, 2014.



Pamela S. Skaggs
Water Rights Supervisor