

Edl, Michele

From: Weaver, Mathew
Sent: Monday, November 28, 2011 1:37 PM
To: bumblebee220@cableone.net
Cc: Edl, Michele
Subject: Forthcoming Riverside Village Transfers

Don,

Please find attached a memo I have prepared regarding your draft transfers that we reviewed in my office earlier this year. Following our previous meeting I met with Michele Edl and Pam Skaggs to discuss your proposed transfers and some of the messy details associated with them. The attached memo summarizes some of the issues we discussed and foresee as potential pitfalls for your transfer.

Once you have had chance to review my Memo give me a call to discuss. I know it is your preference to meet with me in person when you submit the transfer to go over any outstanding questions or details.

The following is an estimate of the fees that will be associated with your submittal.

63-9718

3.21 cfs (irrigation, diversion to storage)
127.50 Ac-Ft (irrigation, aesthetic storage)

63-9751

3.21 cfs (aesthetic)
2,324 Ac-Ft (aesthetic) (not a basis for considering fees)

Combined Diversion Rate: 6.42 cfs - \$980 (refer to fee schedule:
<http://www.idwr.idaho.gov/RulesStatutesForms/WaterRights/PDFs/appfeedoc.pdf>)

Ownership Split (as needed)

2 ownership splits - \$200 (refer to fee schedule)

Total Fee = \$980 w/out splits, \$1,180 w/ splits.

Cheers,

Mat Weaver, P.E.
Engineer, Technical 2
Idaho Department of Water Resources
(208) 287-4914



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MEMO

To: File

From: Mat Weaver MW

Date: November 28, 2011

Ec: Michele Edl, Don Anton

RE: Riverside Village Subdivision Water Rights 63-9718 and 63-8751 Transfer Considerations

This memo is response to a request by Don Anton, president of the Riverside Village Subdivision (RSV) home owners association (applicant), to review the transfer application of two water rights owned by the RSV subdivision. During an office day visit Mr. Anton initially provided two separate draft transfer applications for my review, one for water right (WR) 63-9718 and one for WR 63-9751. Since both of these water rights support a common system of aesthetic pond features within the subdivision, I have advised him that both water rights can be combined into a single transfer application.

Water Right 63-9718

WR 63-9718 includes the aesthetic storage (78 Ac-Ft) and diversion to storage (3.21 cfs) of water from Village Lake (i.e. Glenwood Lake). It also authorizes the irrigation of up to 11 acres of ground with Village Lake water (0.44 cfs, 49.50 Ac-Ft). This water right was decreed on February 16, 2007 with a place of use that identified Glenwood Lake in association with the aesthetic storage and diversion to storage components of the water right. The decree also identified a long narrow corridor of ground between the subdivision and the Boise River as the irrigation place of use (POU). Refer to the attached 'WR 63-9718 Pre-transfer Exhibit Map' for depiction of the decreed configuration.

Glenwood Lake is currently located on property owned by Garden City and lies immediately upstream of a series of 12 aesthetic ponds located within the RSV subdivision. In addition, the strip of ground identified as the irrigation POU largely lies on ground owned by Garden City, with some small overlap of ground within the RSV subdivision.

The applicant would like to file a transfer that changes the POU of the aesthetic storage and diversion storage components of the WR from Glenwood Lake to a series of 12 ponds within the subdivision with a combined surface area of 4.8 acres. He would also like to change the irrigation POU to depict the entire RSV subdivision as a PPU with no more than 11 acres of irrigation occurring within the PPU boundary. Refer to the attached 'WR 63-9718 Post-transfer Exhibit Map' for depiction of the proposed transfer conditions.

The following items are of concern and should be noted by the applicant and addressed accordingly in the transfer application submittal package.

- Owner Ship: Currently the majority of the place of use associated with this water right is on land owned by Garden City. Regardless of the name on the water right, unless the water rights were withheld when RSV subdivision conveyed the land to Garden City, the water rights will likely be found by the Idaho Department of Water Resources (Department) to belong to Garden City (i.e. the owner

of the land overlapped by the decreed POU). In order to approve the transfer as proposed, the applicant will need to submit with the transfer application, a document from Garden City that relinquishes their interest in the water right. Alternatively, if the water rights were previously withheld from Garden City a copy of that documentation should be provided with the transfer application.

- Volume Limitation: The aesthetic storage volume is limited to 78 Ac-Ft. The combined surface area of the 12 ponds inside the RSV subdivision is 4.8 acres. Therefore, the average depth of all ponds cannot exceed 16.25 feet, without exceeding the volume limitation. The transfer application should include some description of the average depth, combined surface area, and the combined volume so the Department can verify that the transfer will not enlarge the volume component of the water right.
- Forfeiture: In the State of Idaho, five years of non-use of a water right can lead to the forfeiture of the water right. This water right was decreed on February 16, 2007. If irrigation is not fully resumed by February 16, 2012 it may be subject to forfeiture. The submittal of a transfer application does not constitute defense to forfeiture.
- Authority to Sign On Behalf of an Applicant: Consistent with Transfer Processing Memo No. 24, for the approval of any application for transfer, the Department must have sufficient information to determine that the applicant has the authority to seek the proposed change in use of the water right(s). If the applicant's name does not match the name in the Department's records for the current owner of the right(s) sought to be transferred, the applicant must provide evidence of authority to make the proposed change. The evidence of authority should be included with the transfer application.

Water Right 63-9751

Water right (WR) 63-9751 authorizes the diversion of 3.21 cfs from the Boise River into Glenwood Lake and the RSV subdivision pond system for aesthetic use. A condition on the decreed right identifies the use to be "entirely non-consumptive". Consumption can only occur if mitigation water is provided to the Boise River from an alternative source with a deliverable priority date. This water right was decreed on February 16, 2007. The decree identified Glenwood Lake and six ponds within RSV subdivision as the POU. Refer to the attached 'WR 63-9751 Pre-transfer Exhibit Map' for depiction of the decreed configuration.

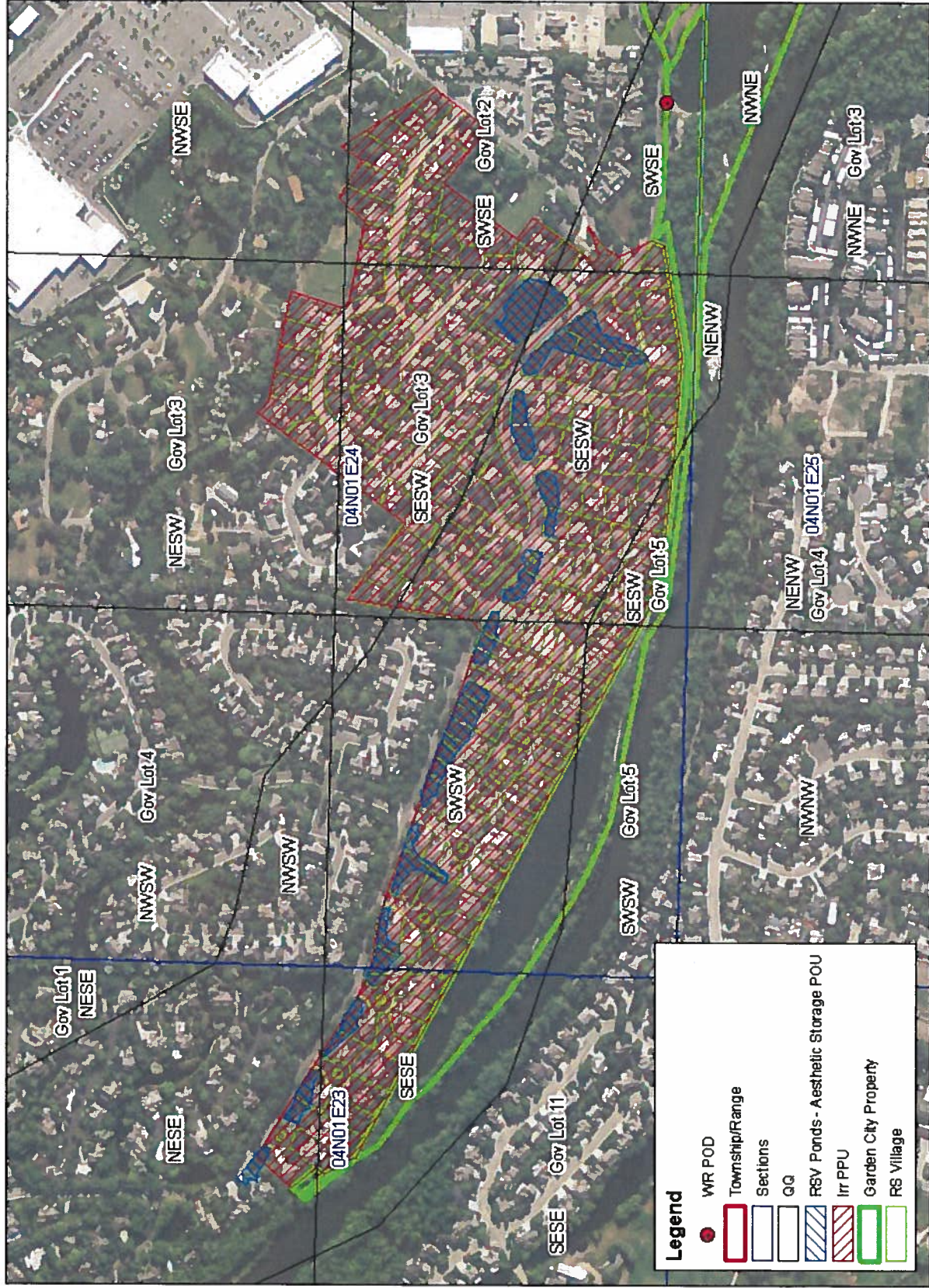
The applicant would like to file a transfer that changes the POU of the aesthetic use by eliminating Glenwood Lake from the POU and adding six additional ponds within RSV subdivision not currently included in the POU. He would also like to change the POD from its current location on the Boise River to the structure on the west side of Glenwood Lake that regulates flow into the RSV subdivision pond system. Refer to the attached 'WR 63-9751 Post-transfer Exhibit Map' for depiction of the proposed transfer conditions.

The following items are of concern and should be noted by the applicant and addressed accordingly in the transfer application submittal package.

- Owner Ship: Currently a portion of the place of use associated with this water right is on land owned by Garden City. Regardless of the name on the water right, unless the water rights were withheld when RSV subdivision conveyed the land to Garden City, the Department will likely find that a portion of this water right belongs to Garden City. In order to approve the transfer as proposed, the

applicant will need to submit with the transfer application, a document from Garden City that relinquishes their interest in the water right. Alternatively, if the water rights were previously withheld from Garden City a copy of that documentation should be provided with the transfer application. If no such document is provided, the Department will split the water right providing part of the WR to RSV subdivision and part to Garden City in an amount proportionate to the respective amounts of land overlapped by the current POU.

- Change in POD: The applicant would like to change the POD location to avoid the potential of installing future controlling works on the diversion structure from the Boise River. However, since the main objective of this right was to provide a source of flow-through water, with sufficient head to gravity drain into the RSV subdivision pond system (head not sufficiently provided for by Glenwood Lake), it does not seem tenable for the Department to recognize a change in POD from the Boise River to the outlet of Glenwood Lake. Although Glenwood Lake and the river may very well be the same source, it is the energy added to the system due to the physical location of the current POD that defines the need for the POD to be located and described at its current location. This understanding does not necessitate the installation of additional controlling works, as the Department considers the existing controlling works on the outlet of Glenwood Lake to provide sufficient control and regulation of the diversion. In the event that the diversion into RSV subdivision is turned off, all water diverted from the Boise River into Westmorland Lake and Glenwood Lake will return to the Boise River via existing direct surface connectivity (above a certain river stage) and/or groundwater seepage back to the river (below a certain river stage). As such, I would recommend that the applicant should submit a transfer application that does not propose a change in POD.
- Authority to Sign On Behalf of an Applicant: Consistent with Transfer Processing Memo No. 24, for the approval of any application for transfer, the Department must have sufficient information to determine that the applicant has the authority to seek the proposed change in use of the water right(s). If the applicant's name does not match the name in the Department's records for the current owner of the right(s) sought to be transferred, the applicant must provide evidence of authority to make the proposed change. The evidence of authority should be included with the transfer application.



WR 63-9718 Post-transfer Exhibit Map

