



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

February 6, 2008

Golden Gardiner
1750 S Hwy 81
Malta, ID 83342

RE: App For Transfer 74472

Dear Mr. Gardiner;

While reviewing your application, I have found a problem with the proposal. While Right 43-4233 includes 60 acres of irrigation in the NW/NW Sec. 25 and the NE/NE Sec. 26, my review of aerial photos from the last 5 years appears to show that only about 4 acres have been irrigated in these tracts during that period. The proposed new pivot covers 83 acres. The total place of use for your existing water rights is 396 acres, not 366 acres as I had thought. Subtracting the 56 non-irrigated acres from 396 acres leaves 340 acres that I believe can be recognized as valid under the transfer. This leaves 26 acres covered by the application that would need to be left dry each year.

This is obviously an unfortunate turn of events, but I do not know what to do about it. You could reduce the size of the proposed south pivot, or you could just leave 26 acres dry anywhere on the farm. You could withdraw the transfer, irrigate the 56 acres for one year, and then refile the application. You could offer a defense to forfeiture, but I cannot think of anything that would apply based on my present knowledge of the property. Please consider your options, and let me know what you want to do. I will hold these applications without further action until I hear from you.

As hard as I try, it is really difficult to think of absolutely everything that could affect a transfer while I am putting an application together for a customer. People really need to pay attention to the forfeiture clock if they want to keep all of their acres available for future transfer. It is perfectly legal to resume irrigating land after 5 consecutive years of non-use, which could again make those acres eligible for transfer (assuming that there has been no official finding of forfeiture on those acres).

As we discussed in my office, documentation is required to add your wife as co-owner of your various water rights. She is not mentioned by name on the tax notices that you provided, so they do not help in this regard. A copy of your marriage license will suffice, or you could provide copies of deeds for all the land on your farm (assuming that her name is also on the deeds). I know this is a nuisance, but it is meant for your protection as a water-right owner.

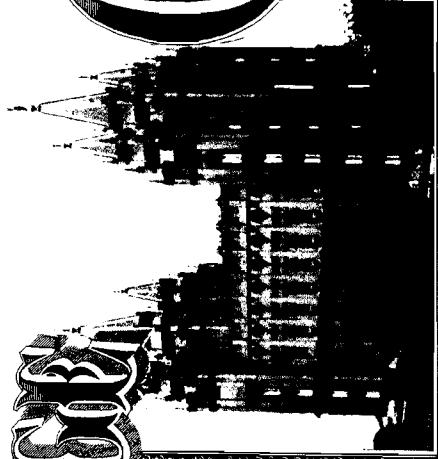
Regards,

Jim

James E. Stanton
Sr. Water Resource Agent

83
26
—
57

Tues 10:30



COUNTY OF SALT LAKE

This Certifies that

GOLDEN FREDERICK GARDINER

MALTA

IDAHO

and BARBARA JEAN EHLERS

SALT LAKE

UTAH

were by me joined together in the Holy Bonds of Matrimony, according to the Ordinance of God and the Laws of the State of Utah, at the Temple Salt Lake City in said County, on the THIRTY-FIRST day of OCTOBER in the year of Our Lord One Thousand Nine Hundred and FIFTY-TWO

In the presence of

John Perry Ehlers Witness

Wiley E. Hansen Witness

128160

License issued by the Clerk of

SALT LAKE

County,

29 OCTOBER

1952

David Broadbent
An Elder of the Church of Jesus Christ of Latter-day Saints

ATTACHMENT _____

TRANSFER _____

RIGHT NO				NE				NW				SW				SE				
	TN S	RN G	SE C	N E	N W	S W	SE	N E	N W	S W	SE	N E	N W	S W	SE	N E	N W	S W	SE	
43-2573			23													39	39	36	39	153
			24							38	~~38~~	35	35	11			27			180
												38	28	28						
2573			26	30	3															33
			25					30												30
																				~~386~~
			23													253	25	349	351	120.3
			24							353		31.3	27.9	31.4			31			156.9
			25							31.8	30.6									52.4
			26	31.5	2.3		11.7													35.5

8.25
Check irrigation in NW/NW + NE/NE 8.26