

MEMORANDUM

Date: October 31, 2006
To: Transfers 66412, 66413 and 66414
From: ameritt
Re: insufficiency memo, recommend rejection

On February 20, 1996, W. Bruce Willis (applicant) through Joseph McAllister, having power of attorney from the applicant, filed Applications for Transfer Nos. 4983, 4984, 4988 (66412), 4989 (66413) and 4990 (66414) with the Department proposing to modify water rights associated with lands in Blaine County, Idaho. Brockway Engineering prepared the applications for the applicant.

On October 16, 1996, the applicant modified applications 4983, 4984, 4989 and 4990.

The Department advertised the applications on January 22 and 29, 1997. Applications 4983 and 4984 were subsequently protested by Blaine County and Flying Heart Ranch Owners Association. Wood River Valley Irrigation District 45 protested application 4983. The Department has held all the applications pending resolution of the contested cases.

During 1998, the Department held hearings for protested applications for transfer filed in the names of Dennis M. Baker and Huf-N-Puf Trust. The applications proposed modifications to water rights similar to those proposed by the applicant in protested transfers 4983 and 4984. The Department denied both the Baker and Huf-N-Puf applications.

On April 4, 2001, the Department corresponded with the applicant and Joseph McAllister inquiring of their continuing interest in the applications in light of the 1998 decisions for the Baker and Huf-N-Puf applications and sent a copy of the letter to Brockway Engineering. The contact was made in an effort to schedule a formal hearing for the protested applications. Neither the applicant nor his representative responded to the inquiry.

Based on information provided by Brockway Engineering that legal representation for the applicant may have changed, on November 9, 2001, the Department corresponded with Ned Williamson seeking information of continued interest in the applications. The Department sent a copy of the correspondence to Debbie Johnson and Brockway Engineering. Neither Mr. Williamson nor Ms. Johnson responded.

On December 2001 the Department issued a Notice of Proposed Default Order for all five transfers. On January 2, 2002 the Department received a Petition Challenging the Proposed Default Order from Ned Williamson, attorney for Willis indicating the applicant wished to proceed with the unprotested transfers.

On January 7, 2002 the Department withdrew the default order for transfers 4988, 4989 and 4990. The other two protested transfers were set aside or defaulted.

On 2/8/2002 in a conversation with Brockway Engineering clarification was sought as to how to proceed with the transfers absent the ones set aside since they were essentially a package. A request was made to document the files sufficient to allow shapes to be drawn of the proposed water uses. Also in light the Willis/Moore divorce clarification was sought as to the ownership of the water rights. Brockway indicated he would contact the parties and seek clarification and potentially amend the

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transfers.

On 10/30/2002 the Director issued Administrator Memorandum Transfer Processing No. 24 outlining policies for processing transfers.

On 12/21/2004 and 12/22/2004 Ned Williamson and Brockway Engineering were contacted to inquire of the continued interest in processing these remaining transfers and the need to supply the necessary information as outlined in the transfer memo. Brockway Jr. indicated he would attempt to contact the parties again but indicated he thought that some of the transfers may be withdrawn.

On 1/5/2006 I reviewed the files again since nothing had been submitted. I found by using the Blaine County tax lot layer that the subject property was in split ownership so I wrote a letter directly to the parties of record and to Brockway Engineering seeking clarification of the applications and to establish a dialog to seek the additional information required by the Director memorandum. In the letter I gave them 30 days to respond.

Shortly after the 1/5/2006 letter Ned Williamson called and indicated that Brockway Engineering would look into what needs to be done.

On 10/31/2006 I phoned Brockway Jr. and he indicated that he has recommended that the transfers be withdrawn but the applicant has not been responsive.

I find that the applications lack sufficient detail to allow entry in the department SDE database and lacks the documentation of the ownership of the water right, the place of use and other essential documents as required by Transfer Processing Memo No. 24.

Based on lack of significant response from the applicant to clarify the applications and to even provide a legal contact I recommend that transfer applications 4988 (66412), 4989 (66413) and 4990 (66414) be rejected.