

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 12/28/2005

RE: BENARD SARINAS TRANSFER, 72548

This transfer proposes to retire 0.04 cfs, 14 afa, and 4.0 acres in the NWNW S19 T4S R5E, also described as a ½ mile southeast of Nielsen Road and the Grandview Highway and move the appurtenant water to a proposed new well and 4.0 acres of irrigation in the SWSW T4S R6E S11, Elmore County also described as ¼ mile north of the Hamilton Road and Highway 51.

AUTHORITY TO FILE:

The applicant supplied a Warranty Deed showing their ownership of the property where the water will be moved and a copy of the purchase agreement from the owner of record on the water right. Therefore, ownership to file this transfer has been proven.

WATER RIGHT VALIDITY:

These water rights have been decreed in the Snake River Basin Adjudication (SRBA) and a previous hearing has shown that the water rights are currently valid.

INJURY TO OTHER WATER RIGHTS:

A hearing has been held on the previous transfers concerning the splitting of these rights. No information was produced suggesting injury if the same conditions used on the previous transfers are applied to this transfer.

ENLARGEMENT OF USE:

Enlargement of this right has not been proposed. As long as the previous transfer conditions are carried forward, enlargement of the water right should not be an issue.

LOCAL PUBLIC INTEREST:

There has been a hearing on similar transfers using these water rights. If the conditions are carried forward it should not affect this transfer.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

This transfer proposes beneficial use consistent with conservation of water resources in Idaho and has been operating using licensed water rights with the State of Idaho.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of the application.

NARRATIVE

The applicant proposes to move the water from the original point of diversion and place of use and move it their property. There have been several transfers filed on these rights. Please see the split tables to show the splits off of these water rights. There is adequate water right to cover all of the splits from this water right.

The first transfer for this water right was 69262 for Idaho Power for a power facility. In the process of this application it was protested and the validity of the water right came into play. An extension of time to avoid forfeiture was filed and was protested. In the extension of time was brought up for hearing prior to processing of any of the transfers in order to determine if there was need to pursue the remaining transfers. The Department found that these rights were not forfeited and that they are valid water rights. Therefore, processing on all of the water rights has proceeded. It was also discovered in this hearing that there was an IRS lien on the property. The applicant has provided information to show that the lien has been lifted.

Robbie Robinson, who has submitted a power of attorney document that allows him to sign for the applicant, signed the application.

The application was corrected and initialed by Mr. Robinson on 1/8/2006, however, I was not in the office at the time of the corrections. Each correction was not individually initialed, so I wanted to ensure that the applicant's representative signed off with full knowledge of each correction. I sent a letter detailing each correction to the applicant's representative to ensure that he agreed to each correction, and he responded that he confirmed each correction in a letter format.

The rate and acres are figured as follows

4 acres retired from 150.7 acres

61-12054 → 1.64 cfs → 522 afa → 116 acres

61-12056 → 0.37 cfs → 34.7 acres

61-12054 → $(116 \text{ acres} / 150.7 \text{ acres}) \times 4 \text{ acres} = 3.1 \text{ acres retired from 61-12054}$
 $(1.64 \text{ cfs} / 116 \text{ acres}) \times 3.1 \text{ acres} = 0.04 \text{ cfs from 61-12054}$
 $(522 \text{ afa} / 116 \text{ acres}) \times 3.1 \text{ acres} = 14.0 \text{ afa from 61-12054}$

0.04 cfs / 14 afa for 3.1 acres from 61-12054

61-12056 → $(34.7 \text{ acres} / 150.7 \text{ acres}) \times 4 \text{ acres} = 0.9 \text{ acres retired from 61-12056}$
 $(0.37 \text{ cfs} / 34.7 \text{ acres}) \times 0.9 \text{ acres} = 0.01 \text{ cfs from 61-12056}$

0.01 cfs for 0.9 acres from 61-12056

TOTAL → 0.04 cfs / 14 afa for 4 acres from both rights.

SUMMARY

This application seems to adhere to the same criteria as the former transfers. The same conditions should be used on this transfer as was used on the previous transfers.