



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

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October 28, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHURCH OF JESUS CHRIST
OF LATTER DAY SAINTS
139E SOUTH TEMPLE SUITE 110
SALT LAKE CITY UTAH 84111-113

RE: APPLICATION FOR TRANSFER FOR WATER RIGHT 61-7298

Dear Applicant:

We received your application for transfer on water right 61-7298 on 12/19/2003. Review of this transfer has revealed some questions that will need to be answered prior to further processing of the application. This right was originally licensed as part of a larger farm dependent on lying certain ground fallow from year to year. There wasn't adequate water to irrigate all of the land under the system, so the irrigation was rotated from location to location every year. Unfortunately, the water right in your transfer application is the most junior of the rights describing this system, and would be last right to receive water if all the other rights were used at their full allotment. I have tried to give an explanation of the rights below.

BACKGROUND:

Between 9/6/1974 & 9/10/1975 Elwood Wing (Wing) filed four water rights on two wells. These rights are listed as 61-7196, 61-7205, 61-7206, and 61-7240. The wells capacity was determined on a field exam in 1987 as 19.26 cfs. This diversion rate would allow an annual volume of 9397.7 afa ($19.26 \text{ cfs} \times 246 \text{ days} \times 1.9835 = 9397.74 \text{ afa}$).

Herb Montierth (Montierth) filed two water rights, 61-7265 & 61-7298 with 4/12/1976 and 12/21/1976 priority dates on one of the wells described in the Wing water rights. According the documentation in the water right file Wing and Montierth had an agreement that allowed Montierth to use $\frac{1}{2}$ of the water produced in one of the Wing wells when available. The field reports for these water rights show the two wells were identical and diverted approximately 9.63 cfs for each well. Whereas the Montierth rights were limited to just one of the two wells, a condition was attached to Montierth's water right limiting his diversion rate and volume based on the capacity of just one of the two wells.

In 1991, a transfer was filed on water right 61-7205 removing 3.24 cfs and 720.6 afa from the system capacity. In 1994, a transfer was filed on water right 61-7206 that removed 4.80 cfs and 1,080 afa from the system capacity. After these two transfers were approved the total system capacity remaining for the remaining Wing and Montierth water rights for both wells should have been reduced to 11.22 cfs ($19.26 \text{ cfs} - 3.24 - 4.80 = 11.22 \text{ cfs}$) and the total system volume should have been reduced to 5474.7 ($11.22 \text{ cfs} \times 246 \text{ days} \times 1.9835 = 5474.7 \text{ afa}$).

A transfer on the remainder of the Wing rights was approved in 9/3/2002 to place these rights in a large permissible place of use and incorporate additional water rights and wells. The Wing Rights are now under the ownership of Carl F. Reynolds and Sons. This transfer removed an additional 10.5 cfs and 2354.7 afa from the systems capacity. This would leave 0.72 cfs ($11.22 \text{ cfs} - 10.5 = 0.72 \text{ cfs}$) and 351.3 afa ($0.72 \text{ cfs} \times 246 \text{ days} \times 1.9835 = 351.3 \text{ afa}$) of available water from both wells.

The above transfers are all on water rights developed prior to the Montierth rights. Therefore, they would have the option to use these rights to their maximum potential prior to the use of water rights 61-7265 and 61-7298. Montierth is still listed as the owner of water right 61-7265, which has the earliest of the two priority dates. 61-7265 was licensed for 2.98 cfs and 596 afa, and would have the ability to use all of the remaining water from the original system capacity.

CONCLUSION

All of the Wing and Montierth rights were licensed based on a common system that would allow a certain amount of land to lay fallow from year to year or depend on crop rotations to supply water for the entire property. Unfortunately, the original system no longer exists, which brings about questions on how the water should be distributed. Water right 61-7298 is the latest in time right and would be last right that could be fulfilled if all of the water rights ahead of it were being used at their full allotment. However, these rights are no longer under the same ownership and cannot be distributed as originally licensed.

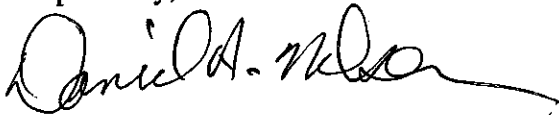
Therefore, the transfer applicant will need to supply our office with a plan involving all of the other water users that shows which lands will be idled each year, and the amount of water being diverted from each of these water rights. If the applicant cannot provide this information, then I would be required to recommend this application for transfer be denied based on the enlargement of the water rights.

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Our office is working with Carl F. Reynolds and Sons who are the current owners of the Wing rights and farm most of the property around Cinder Cone Butte to find a solution to the land rotation practices used in this area. You may want to contact our office about joining the Reynolds in working on a long-term solution to these issues

If you have any questions or concerns please contact Dan Nelson at the above address.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long, sweeping horizontal line extending to the right.

Daniel A. Nelson
Sr. Water Right Agent

WATER RIGHT LICENSE

WATER RIGHT NO. 61-07205

Priority: October 25, 1974

Maximum Diversion Rate: 3.24 CFS
Maximum Diversion Volume: 720.6 AF

This is to certify, that CONNECTICUT GENERAL LIFE INSURANCE CO.
C/O CIGNA CORP.
S. BUILDING S-305
900 COTTAGE GROVE RD.
BLOOMFIELD, CT 060020000

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 25, 1974; and that the works have a diversion capacity of 18,800 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	03/15 to 11/15	3.20 CFS	720.0 AF
DOMESTIC	01/01 to 12/31	0.04 CFS	0.6 AF
Totals		3.24 CFS	720.6 AF

LOCATION OF POINT(S) OF DIVERSION:

NESW, Sec. 6, Township 03S, Range 05E
SESW, Sec. 7, Township 03S, Range 05E
Elmore County

PLACE OF USE: IRRIGATION

TWN RGE SEC	ACRES	ACRES	ACRES	TOTAL
03S 04E 13	SWNE 27	LOT 3(NESF) 53	SWSE 33	160
	LOT 4(SESE) 47			160

Total number of acres irrigated: 160

PLACE OF USE: DOMESTIC

TWN RGE SEC
03S 05E 6 SESW

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.

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