

21-2039

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED
JAN 02 2003
Department of Water Resources
Eastern Region

IN THE MATTER OF TRANSFER NO.)
69328 IN THE NAME OF DAVID W.)
AND CHERIE T. GLENN)

ORDER GRANTING PETITION
FOR RECONSIDERATION

On December 6, 2002, the Department of Water Resources ("Department") issued a Preliminary Order amending the approval for the transfer captioned above ("transfer").

On December 20, 2002, Pamela Wascher filed a Petition for Reconsideration ("petition") on behalf of the transfer applicant with the Department asking for reconsideration of the transfer and postponement of the final order approving the transfer. Postponement was requested to provide time for Department review and recommendation of the water rights associated with the transfer in the Snake River Basin Adjudication (SRBA).

ORDER

The Department has reviewed the petition and HEREBY ORDERS that the petition is **GRANTED** under the following terms:

- ~~1. Granting of the petition does not represent Department agreement with any provision of the petition.~~
2. The Department retains jurisdiction of the matter in order to review the SRBA recommendation of water rights associated with the transfer when such recommendations are completed.

Dated this 26th day of December, 2002.


L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

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DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

In the Matter of
TRANSFER OF WATER RIGHT
No. 27-2039 as Modified by Transfer
No. 69328

PETITION FOR RECONSIDERATION
POSTPONEMENT OF ISSUANCE OF
FINAL ORDER

Right Holder: David W. Glenn and
Cherie T. Glenn
448 Seneca Road
Great Falls, VA 22065

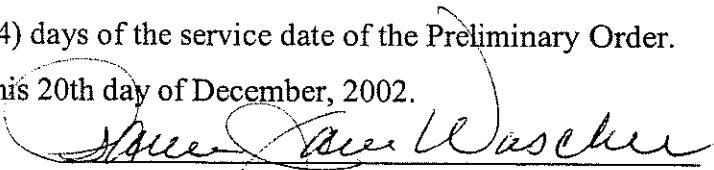
COMES NOW, David and Cherie Glenn by their Idaho Agent Joe Dunford, owner of the above referenced water right , and petition through Pamela Jane Wascher, Petitioner, the Idaho Department of Water Resources requesting that issuance of Final Order in the above referenced Transfer be delayed for the reasons set forth below. Petitioner believes that issuance of this Final Order is premature at this time, and should be postponed until such time as the three additional water rights covering this same parcel of land are adjudicated together with this water which is the basis for this transfer. The Department, on December 6, 2002, issued an Amended Transfer of Water Right(s) correcting a clerical error, which amended transfer is a Preliminary Order issued pursuant to section 67-5243, Idaho Code. Owner is responding within the 14 days allowed. Petitioner's Request for Reconsideration and Postponement of Issuance of Final Order is based on the following facts:

1. The Department has not examined all water rights appurtenant to this parcel of land.
2. An issue of forfeiture exists which has not been resolved. The Department has allowed resumption of use of water in other specific similar cases which Petitioner is personally familiar (one being the Ambrose ranch), and the same consideration should be given in this transfer, and to deny that in this case would result in unequal application of the law. Courts in the state of Idaho favor resumption of use to forfeiture. Inasmuch as this water right and the three other water rights below are from the same water source, (Chester Springs), to determine a forfeiture on this right prior to adjudication review of the other three related and commingled water rights is inappropriate.

3. New additional research has determined that three additional water rights are also appurtenant to this same parcel of ground as the above referenced water right. The three additional water rights are 27-4000A, 27-4000B and 27-11339 and are owned by the same owners as the above water right, are commingled and should be considered collectively to determine the water allocation for this parcel, specifically Township 06S, Range 42 E, the SW1/4 of the SW1/4 of Section 10.
4. No injury will occur to any party as a result of the postponement of the issuance of the Final Order.
5. No expansion of a water right has occurred or will occur as a result of the postponement of the issuance of the Final Order.
6. Petitioner discussed via telephone, the issue of the three additional water rights on December 18, 2002 with Adjudication Director Dave Tuthill relative to this transfer and the upcoming adjudication of the four water rights. Mr. Tuthill concurred that it would be prudent to adjudicate all four water rights at the same time and to postpone the issuance of the Final Order in the above transfer until after the adjudication process has occurred relative to all four water rights.
7. Petitioner is actively researching the three additional water rights in order to submit the information to the Idaho Department of Water Resources, Brockway Engineering is starting research necessary to the adjudication of all four water rights (including this transfer). The results of the additional research are relevant to a considered determination in this case.
8. Basin 27 is scheduled for adjudication commencement in the spring of 2003. The postponement of the final order is appropriate until such time as all four water rights can be adjudicated. No injury will occur to any party as a result of the postponement to issuance of a final order.

This Petition for Reconsideration and Postponement of Issuance of Final Order is submitted within the fourteen (14) days of the service date of the Preliminary Order.

Respectfully submitted this 20th day of December, 2002.


Pamela Jane Wascher, Petitioner for Joe Dunford
Joe Dunford, Idaho Agent for owners David and
Cherie Glenn

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED**TRANSFER OF WATER RIGHT*****AMENDED***

TRANSFER NO. 69328

This is to certify that: DAVID W GLENN AND
CHERIE T GLENN
448 SENECA RD
GREAT FALLS VA 22066
(703) 430-8325

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Department of Water Resources
Eastern Region

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acres</u>	<u>Total</u>	<u>Source</u>
27-2039	AJC/License	11/27/1914	0.50 cfs			25.0	CHESTERS SPRING, SPRING

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
27-2039	NO	NO	NO	NO	YES	YES

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
27-2039	27-2039	0.45 cfs	72.9 af	N/A	19.7	N/A	N/A	N/A	N/A	N/A
TOTALS		0.45 cfs	72.9 af	N/A	19.7		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 5th day of December, 2002


Chief, Water Allocation Bureau

WATER RIGHT NO. 27-2039
As Modified by Transfer No. 69328

In accordance with the approval of Transfer No. 69328, Water Right No. 27-2039 is now described as follows.

Right Holder: DAVID W GLENN AND
 CHERIE T GLENN
 448 SENECA RD
 GREAT FALLS VA 22066

Priority Date: 11/27/1914

Source: SPRING

Tributary: LITTLE BLACKFOOT RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	04/15	to 10/31	0.39 CFS	69.0 AF
STOCKWATER	01/01	to 12/31	0.01 CFS	0.2 AF
DOMESTIC	01/01	to 12/31	0.03 CFS	1.2 AF
RECREATION	01/01	to 12/31	0.02 CFS	
RECREATION STORAGE	01/01	to 12/31		2.5 AF
			0.45 CFS	72.9 AF

LOCATION OF POINT(S) OF DIVERSION:

SPRING NWNWSW Sec. 10 Twp 06S Rge 42E CARIBOU County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 42E 10												19.7					19.7

Total Acres: 19.7

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 42E 10												X					

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 42E 10												X					

WATER RIGHT NO. 27-2039
As Modified by Transfer No. 69328

PLACE OF USE: RECREATION

Twps	Ranges	Sections	NE				NW				SW				SE				Totals
06S	42E	10	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
													X						

PLACE OF USE: RECREATION STORAGE

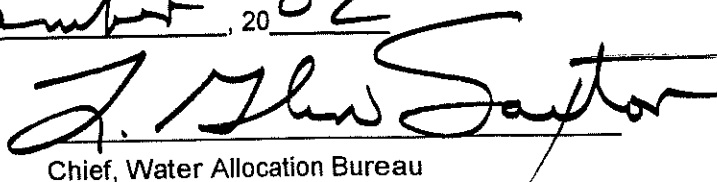
Twps	Ranges	Sections	NE				NW				SW				SE				Totals
06S	42E	10	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
													X						

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 27, Blackfoot River.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
4. A portion of Right 27-2039 described as 0.05 cfs, 4.3 acres irrigation and 15.1 af has been forfeited through non-use.
5. Domestic use is for 1 home and a store.
6. Source is also known as Chesters Spring.
7. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
9. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 5th day of December, 2002


Chief, Water Allocation Bureau