

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 2/9/2005

**RE: CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
TRANSFER # 72071, RIGHTS 63-32100, 63-32094, & 63-32046**

The purpose of this transfer is to split a portion of all three water rights and move them to a single property owned by the applicant. The applicant will retire 0.04 cfs, 5.4 afa, and 1.2 acres of irrigation described in 63-32100 located on the northwest corner of Canyon Street and Smith Ave, Nampa, ID in the SWNE S21 T3N R2W, Canyon County. The applicant will retire 0.02 cfs, 5.4 afa, and 1.2 acres of irrigation described in 63-32046 located approximately ½ mile west of and ½ mile south of the corner of Locust Grove and McMillan at the current place of use and point of diversion in the SWNE S31 T4N R1E, Ada County. The applicant will retire 0.03 cfs, 7.2 afa, and 1.6 acres of irrigation described in 63-32094 located approximately 1 ½ mile east of Robinson Road and ½ mile south of Kuna Cave Road at the current place of use and point of diversion in the NE S21 T1N R1w, Ada County. The water being retired will then be moved to a new point of diversion and place of use located ½ south of the corner of Karcher and Farmway Roads in the NWNW of S16 T3N R3W, Canyon County.

AUTHORITY TO FILE:

The applicant is the owner of record on water right 63-32100 and they have supplied Water Right Purchase and Sales Agreements for water rights 63-32094 and 63-32046 for the water rights being moved. They have supplied a warranty deed showing the ownership where the right is going to be used.

WATER RIGHT VALIDITY:

Water right 63-32100 is a statutory claim that has been filed in the Snake River Basin Adjudication. Vicky Music of our adjudication staff reviewed this statutory claim and believes it would be recommended for 0.09 cfs and 3 acres of irrigation with a season of use of 3/1 to 11/15. Water right 63-32046 is one of several transfers and splits on water right 63-9972. This water right has been reviewed repeatedly, and there isn't anything in all the information available for this right that this transfer can't be accomplished. Water right 63-32094 is a split from water right 63-7194, which has been recommended in the Snake River Basin Adjudication. Therefore, it is reasonable to allow this transfer for this amount.

INJURY TO OTHER WATER RIGHTS:

These rights have been used in the past without consequence, and with the small amount of use being sought it doesn't appear there would be any significant problems in the area where the water will be used. I don't anticipate any injury from this transfer proposal.

ENLARGEMENT OF USE:

This transfer will move three primary water rights to lands currently being irrigated by surface water. In order to retain the primary status of the ground water right, the applicant has requested that a condition be placed on the transfer that states that the surface water must be removed prior to diverting ground water. Therefore, no expansion of the right is being proposed.

LOCAL PUBLIC INTEREST:

There is nothing to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

Applicant proposed beneficial use consistent with irrigation standards for the area.

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

NARATIVE

One of the main issues with this transfer is that there are three primary ground water rights being moved to land covered by canal water from the Wilder Irrigation District. Steve Lester discussed this situation with Jeff Peppersack, and they agreed that the applicant could retain their canal water until the transfer has been approved. Mr. Peppersack requested that a condition be placed on the transfer approval that the applicant must submit written proof to the department that the canal water has been removed from the property prior to the diversion of ground water. If the ground water were diverted before the canal water is removed, then it would become supplemental to the surface water.

The only other issue is that three small water rights with varying rates and volumes are being moved to cover a 4-acre parcel of land. However, this transfer is being used to clean up partial water rights left over from other transfers. All of the rights are over $\frac{1}{2}$ acre, so I could find no reason preventing us from processing the transfer. However, this combination of rights could create some confusion during future regulation. Each water right supplies a full volume per acre of 4.5 afa, but each water right supplies a different diversion rate per acre (63-32100 = $1\frac{1}{2}$ inches per acre, 63-32046 = $\frac{7}{8}$ inches per acre, and 63-32094 = 1 inch per acre). There is also a 30-year difference in priority dates, so there is a real possibility that the latter rights could be curtailed, while the earlier rights would still be allowed to divert water. Adjusting flow rates and acres could be difficult for the applicant during times of regulation. A special condition regarding this issue may be appropriate in this situation.

CONDITIONS AND SUGGESTIONS

This transfer seems acceptable as listed on the front page of the transfer with the inclusion of the conditions on the draft approval.