

Nelson, Dan

From: Nelson, Dan
Sent: Thursday, February 17, 2005 9:07 AM
To: 'T Scanlan'
Subject: RE: 1/2 acre transfer

Hello Terry,

The limitation of transferring a water right under 1 acre of ground is found on Pages 2 and 3 of the transfer memo under "Changes in Place" of Use. We have already had a couple of tests on this issue that we have tried to send through the State Office staff, and they are very set on this issue. The domestic exemption restriction is found on page 11 and 12 in the same memo.

I also wanted to let you know that I did appreciate your questions on the Champion Homes adjudication claims. It gave me the opportunity to research this issue, and clarify for myself what the law actually states. I had to sit down with Jan Shurte to ensure that I was telling you the correct things and referencing the correct codes. This helps me to explain these things better in the future. So, please don't apologize for asking good questions. I would like to help clarify a little further chapters 42-1401 through 42-1428. These are the chapters in Idaho Code that deal directly with the Snake River Basin Adjudication, and they sort of stand on their own merit. So you have to read through the entire chapter to understand what is going on. The definitions for these statutes are not the same as the statutes for transfers and permitting, so you have to read 42-1401 to understand what they are talking about. Idaho code 42-1401A (4) states that any reference to the words "Domestic" in 42-1414(i) refers only to those rights described in 42-111. No matter what you call the use for a water right the \$25.00 fee is only used for those rights subject to 42-111, any rights that don't fit the 42-111 definition need to be treated as commercial or municipal rights, even though their use is listed as domestic.

I hope this helps. If it doesn't, I would like to try to set up a time that you can speak with Jan Shurte about this issue. She did a very good job of helping me through this scenario. I am more than willing to set up a meeting with Jan if you think it will help.

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

-----Original Message-----

From: T Scanlan [mailto:tscanlan@spfwater.com]
Sent: Wednesday, February 16, 2005 6:15 PM
To: 'Nelson, Dan'
Subject: 1/2 acre transfer

Dan -

I was trying to find a reference to the prohibition on transfers of less than 1 acre. Can you tell me where to find it?

Terry

2/23/2005

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, February 02, 2005 8:13 AM
To: 'Terry Scanlan'
Subject: RE: LDS Transfer Water Right 63-9972

Hello Terry,

I have received the answers to your questions. Steve spoke recently with Jeff Peppersack, and they agreed that you could hold onto the Wilder Irrigation District shares until the transfer is approved. However, a condition will be placed on the transfer that states, "Prior to diversion of water under Transfer <...>, the right holder shall provide documentation to the Department that water from Wilder Irrigation District has been legally removed from the above described place of use." All I will need is a written statement from the applicant that it is their intent to remove the Wilder Irrigation District water once the transfer is approved.

You have also asked for documentation showing why we are required to include the previously discussed supplemental conditions on a water right. I have included a copy of Administrative Memo #7 for application processing. This memo clearly shows that we must consider all water rights, however acquired, as supplemental to other water rights with an earlier priority date. This memo has been in existence since 1975, so this is not something new we are implementing. We have required these conditions for as long as I have been with the department. We have revised and improved our standard conditions over the years to remain consistent with this memo, and to prevent any misunderstanding of the memo from water users. Therefore, we are bound to add those conditions, unless there is a contested case that may supply evidence to special circumstances or needs that would be in the best interest of all the parties involved to not include those conditions. This transfer has not been contested, so we are required to add the conditions as long as water rights with an earlier priority date (Wilder Irrigation District Rights) are delivered to the property.

I hope this answers all your questions, if not please contact me and I will discuss them further with you.

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

-----Original Message-----

From: Terry Scanlan [mailto:TScanlan@spfwater.com]
Sent: Wednesday, January 26, 2005 9:39 AM
To: Nelson, Dan
Subject: RE: LDS Transfer Water Right 63-9972

Dan -

2/23/2005

As discussed by telephone, it looks like the LDS Farmway property has water rights within Wilder Irrigation District. If the property is currently in the irrigation district, can we exclude as a condition of approval of the transfer of groundwater to the site, or do we need to exclude prior to processing?

Terry

-----Original Message-----

From: Nelson, Dan [mailto:Dan.Nelson@idwr.idaho.gov]

Sent: Monday, January 24, 2005 3:12 PM

To: Terry Scanlan

Subject: RE: LDS Transfer Water Right 63-9972

Dear Mr. Scanlan,

Our office will re-instate processing of this application per your request. We had hoped it would be possible to process all three transfers at the same time, to minimize on the review and advertising cost. However, with the delays due the statutory claim associated with the other transfers, I agree that it wouldn't be prudent at this time to hold up this transfer any longer. I apologize for the delay, and I will do my best to get it through the system as quickly as possible.

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

-----Original Message-----

From: T Scanlan [mailto:tscanlan@spfwater.com]

Sent: Wednesday, January 19, 2005 10:09 AM

To: 'Dan Nelson'

Cc: 'Grant Cooper'

Subject:

Dan –

Per our telephone discussion, please proceed with processing of the water right transfer for the LDS Farmway project in Canyon County. I understand that you have held that application while waiting on additional information for the two other LDS water right transfers in Canyon County (Lansing and Northside). However, since the Farmway transfer does not depend on the additional information, we would like to see processing completed.

I spoke with Grant Cooper today and they are working at finding documentation for the date that the Canyon 35 building was constructed (water right 63-4949) for the Lansing and Northside transfers. The information will likely consist of building design drawings, as-built plans, or other documents from the church archives that should be adequate to support the occupancy date of January 1, 1954. Grant is also looking for some information to support diversion rate. If no data are available, I suppose we may have to fall back on the typical duty of water for irrigation of small parcels. Grant will send the information to you directly, with a copy to me. (Grant, please send it to Dan Nelson, Idaho Department of Water Resources, 2735 Airport Way, Boise, ID 83705).

Terry

2/23/2005

Nelson, Dan

From: Nelson, Dan
Sent: Wednesday, January 26, 2005 2:37 PM
To: 'Terry Scanlan'
Subject: RE: LDS Transfer Water Right 63-9972

Hello Terry,

I will have to get back to you on this one. I understand your logic and agree with your reasoning, but I am going to need to run it by Steve. Steve is out sick, so it may be a few days before I can give you an answer. I will let you know as soon as I can.

Dan

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