

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 4/25/2005

**RE: WARREN AND MARGARET CARNEFIX TRANSFER # 71926, RIGHTS
65-7880 AND 65-4547**

The purpose of this transfer is correct the adjudication recommendation and original license to show the proper acres on in each 40 acre tract and to correct the water right's shape file. The property is located in the N1/2 of the NW S27 T8N R5W, on the southwest corner of Whitley RD and 1st Street, Payette County.

PLEASE NOTE: The applicant has supplied a letter from all the individuals involved in the correction of this transfer, and is only asking that the shape file and acres in each legal description be corrected. I believe that this application will not need to be advertised. The 1987 aerial photo shows irrigation. Jan Shurte who did the field exam says it shouldn't have been licensed on land not owned by Carnifex. Ron Howerton who did the recommendations said they should have been decreed on Carnifex's property.

AUTHORITY TO FILE:

The applicant is the owner of record on the right being transferred, and has supplied all the necessary ownership documentation to show he owns the corrected place of use. The owner has also supplied letters from the individuals whose land was inadvertently included in the shape file by adjudication staff. All of these individuals state that they have no claim to this water right and agree to the transfer. All the letters are accompanied by ownership documentation showing the lands they own.

WATER RIGHT VALIDITY:

This water right has been partially decreed in the Snake River Basin Adjudication. Even though the place of use was decreed in error, the remainder of the decree is valid.

INJURY TO OTHER WATER RIGHTS:

This right has been used in the past without consequence, and all those involved with the transfer have already written letters agreeing to the transfer. Therefore, I don't anticipate any injury from this transfer proposal.

ENLARGEMENT OF USE:

This transfer requests to correct the place of use decreed in the Snake River Basin Adjudication, and doesn't wish to change the amount of land, rate of flow, or annual volume of this right. 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

The error in the Snake River Basin Adjudication partial decree was discovered during a review of an application for permit from the applicant's neighbors, Curtis and Lois Knight. It was discovered at that time that the shape file created by the adjudication staff overlapped the properties of four other individuals. The adjudication map was based totally off of an old licensing exam map done on water right 65-7880. Mapping technology has changed dramatically since the licensing of the water right, but the adjudication agent was instructed to recommend adjudication claims as licensed. Unfortunately, the overlap of the Applicant's water rights with the Knights' water rights was not discovered until the Knights filed an application for permit for ground water to supplement their surface water right. The Knights' permit is 65-22924.

We have been working with the Knights and the applicant to correct this discrepancy for a couple of years to ensure that everyone was aware of the situation and agreed to correct the record. The applicant has contacted all those who own the land that was included in the shape file and described in the original legal description. Each of the individuals who are involved in this situation agree that they hold no claim to the applicant's water rights, and that they agree to the transfer to clarify the water rights, which will put all the water rights on the applicant's property.

The individuals who have written the letters agreeing to the transfer own all overlapping water rights that may be cause for concern in this transfer. Therefore, this transfer should clarify all of the water rights in this area clean up any overlap questions in this area.

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.