

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 11/9/2004

**RE: BROKEN ARROW FARMS C/O JIM BLANKSMA TRANSFER NO 71617,
WATER RIGHTS 61-2186, 61-2220, 61-7060, AND 61-7222**

The transfer proposes to retire 2 acres of land under water right 61-7222 and 98 acres under water right 61-2186 to change the nature of use to a commercial dairy. The existing irrigation wells will be used for the remainder of the irrigation uses and for the dairy. No new wells are proposed. The transfer will supply 2.00 cfs and 276 afa for the dairy that will consist of 2,800 milking cattle, 500 dry cattle, 3,000 heifers and calves, and standard commercial uses associated with a dairy. The place of use will be located on the north side of Blanksma Road 2 ¼ miles from Highway 51 in Elmore County.

**THE APPLICANT HAS REQUESTED THAT THIS APPLICATION BE
EXPEDITED DUE TO A PENDING SALE OF THE PROPERTY.**

AUTHORITY TO FILE:

The applicant is the owner of record. Further ownership documentation is not required.

WATER RIGHT VALIDITY:

All of these water rights have been decreed in the Snake River Basin Adjudication (SRBA).

INJURY TO OTHER WATER RIGHTS:

The applicant has shown that the closest well to the dairy is ¾ of a mile away. The well ¾ of a mile away is owned by another dairy operation, and there doesn't seem to be any concern on their part. There is no evidence that this small irrigation use would create injury to other local groundwater users.

ENLARGEMENT OF USE:

No additional rate or volume is being requested. The dairy portion of these rights will only divert the historic consumptive use of the crops grown on the lands being retired or 2.76 afa per acre for 100 acres, for a total of 276 afa. Please see crop records and Allen/Brockway Report calculations showing the consumptive water use per acre for this farm. The volume allowed under these rights will be reduced on the dairy portion to 276 afa to show the dairy volume equal to the historic consumptive volume being retired from irrigation. Therefore, enlargement of the right should not be an issue.

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NOV 18 2004

LOCAL PUBLIC INTEREST:

The applicant has supplied documentation that this dairy proposal has already passed Elmore County processing including a public meeting for allowing the construction of a new dairy. The county issued a conditional use permit to the applicant in 1999. Therefore, there is no evidence that this proposal is not in 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 major problem associated with this water right is the overlap of water right 61-7222. Water right 61-7222 originally directly overlapped the 158 acres of 61-2186. This was allowed because 61-7222 allowed irrigation of the 158 acres from two new wells or different sources of water. However, transfer 4235 was filed, and it combined all the acres and all three wells into a common system and permissible place of use. The total number of acres irrigated was limited to 800 acres. Where the first three water rights supplied an inch per acre for 798 acres, this left only 2 acres that could be covered by 61-7222. In working with the consultant on this transfer, we discussed the possibility of taking all of the historic use of 61-7222 or the 2 acres and converting it completely to the new proposed dairy use in this transfer. I consulted with John Westra, Steve Lester, and Jeff Peppersack, and all agreed that the applicant could convert the 2-acres of historic use from 61-7222 for the dairy, and that it would clean up the water rights in our database. Please review memo attachment to help show the history of the water rights. No other water rights overlap this place of use.

The applicant has shown that the dairy is acceptable to all applicable local and state agencies, and that there are no other wells within a ½ mile radius. Therefore, it appears as though most of the issues of injury and public interest have been satisfied. All of the consultant's calculations regarding the dairy's needs and the historic consumptive use seem to be accurate. I can find nothing that would prevent this transfer from being approved.

The applicant is only changing 2.00 cfs associated with the dairy use. Therefore, the transfer fee paid was only for the 2.00 cfs. All of the water rights on this farm were included on the transfer because the permissible place of use will be reduced on all of the water rights with the construction of the dairy. The diversion rates, volumes, and acres listed on water rights 61-2220 and 61-7060 will not be changed. The footprint of the dairy will be 155 acres, so these acres will be removed from the permissible place of use.

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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. The standard condition used in Mountain Home area for water rights being moved from place to place should be added to this transfer the dairy use beyond the non-irrigation season, since it will in essence change when the water will be diverted from the ground. I suggest the condition be changed as follows:

Rights 61-2186 will retain its priority date of 2/23/1966 and 61-7222 will retain its priority date of and 4/14/1975, relative to actions to distribute water that relate to management of the Mountain Home Groundwater Management Area as a whole, but diversion and use of water is subordinate to all rights that use groundwater existing within the immediate area on the date of approval of this transfer, relative to water management actions related to increased draw downs of the water table or depletion of groundwater during the non-irrigation season resulting from this approval.

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