



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 9, 2004

ERO RESOURCES CORP
ATTN: STEVE HANNULA
1106 N. COLE RD., SUITE C
BOISE, ID 83704-8661

RE: 5 APPLICATIONS FOR TRANSFER ON WATER RIGHT 63-31439

Dear Mr. Hannula:

Our office received 5 transfers on water right 63-31439 on 4/2/2004. These 5 transfers were in the name of L.M. and Carol J. McKay, Tim C. and Jan M. Peterson, Mitchell D. Tuel, Jonathan and Bonnie MacDonald, and James M. and Amelia E. Trull. Processing of these transfers must be delayed until we receive the following information:

- 1.) Idaho Dept. of Water Resources (IDWR) transfer memo limits the amount of land that can be involved in a transfer to 1 acre, unless the applicant can show that the new use will not injure other users or expand the use of the water right. The McDonald's transfer requests a transfer of ½ acre of ground. Therefore, our office will need the McDonald's to supply information showing this use will not expand the original water right or injure other water users. They should also inform us of the total number of acres that will be irrigated including the irrigation associated with their exempt domestic use. To insure that they do not exceed the original diversion rate they should agree to install a meter if required to do so by the director.
- 2.) All of the transfers propose fairly limited irrigation use. Our office will need to know from each of the users if they are planning on using their domestic wells for the irrigation purposes. If they plan to use the domestic well, I will be sending them a notice that once the transfer is approved, they will be asked to upgrade their domestic well permit fee of \$75.00 to the irrigation well fee of \$200.00. Therefore, they will need to pay an additional \$125.00 to upgrade their well drilling permits.

- 3.) The Transfers for the McDonalds, Trulls, McKays, and Tuels are within the borders of the Boise Kuna Irrigation District. Aerial photos of this area suggest that this property has been irrigated by the district's water. If these applicants have Boise Kuna Irrigation District shares or rights to use their water, they will be required to use full allocation of surface water first prior to using their groundwater. The overlap of canal water will in essence convert the primary groundwater right they are using in these transfer to individual supplemental water rights. These applicants will need to inform me if they currently have shares or rights to the Boise Kuna Irrigation District water.
- 4.) Our office requires the signature of both parties listed on the warranty deed on an application for transfer. Mitchell and Deborah Tuel are listed as the owners of the property in the Tuel transfer, but only Mitchell Tuel signed the transfer and is listed on the transfer form. Deborah Tuel will also need to sign the transfer and be listed as an owner of the water right. There is also only one signature on the McDonald Transfer, so both Bonnie and Jonathan will need to sign the transfer. Both parties involved in the other three transfers have signed their prospective transfers, so this issue does not affect their transfers.
- 5.) The water right being transferred is currently in the Idaho Water Bank. If this water right is leased at the time of approval, the portion of the water right being transferred will not be released from the Water Bank and the transfer will not be able to be approved until the lease has expired. You may want to consider removing the portion of the water right associated with this transfer to ensure that the transfers can be approved once processing has been completed.
- 6.) There currently is no designated 11 acre place of use in our mapping database for this water right. You will need to supply an aerial photo showing the 11 acres the water right is currently associated with, and you will also need to show which acres are going to be retired once the transfer is approved. Whereas, the irrigation portion of this water right was put immediately into the water bank after it was transferred to its current location, there is no evidence in the aerial photos available to our office to show which lands where going to be irrigated. Our current transfer memo requires that a place of use for the lands being retired and the lands remaining be entered into our mapping database. In order to properly draw the map, our office needs an aerial photo that shows the specific place of use, and specific lands being retired.

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63-31439 Transfers Letter

I will be able to return any of the transfers needed to make the corrections listed above. Please let me know which files you would like returned, and how you would like me to send them to you. I will be more than willing to set an appointment with you to go over everything that is needed for these transfers. It will be easier to process all of the transfer at the same time, so I will hold all the transfers until all of the information is received.

The Department will hold further processing of these applications for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the applications.

If you have any questions or concerns please contact me at the above address.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel A. Nelson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Daniel A. Nelson
Sr. Water Right Agent