

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 4/8/2004

RE: ARBOR RIDGE LLC. TRANSFER, RIGHT 63-9972

The transfer proposes to retire 2 acres of irrigation and move the appurtenant surface water to the applicant's proposed subdivision on the corner of Kuna Mora Road and Cloverdale Road to irrigate 2 acres of common area for the subdivision. The original place of use was located in the SWSW S31 T4N R1E, Ada County and will be moved to NW ¼ S3 T1N R1E, Ada County

AUTHORITY TO FILE:

The applicant supplied a purchase agreement showing the purchase of the existing water right, and a Warranty Deed showing the ownership of the land where the water will be moved.

WATER RIGHT VALIDITY:

This water right has been reviewed several times over the past few months. Each of those reviews show that the water right is valid. Please see Steve Lester's 4/11/2003 memo.

INJURY TO OTHER WATER RIGHTS:

The development of this subdivision has raised some controversy, but the small amount of water being requested in this transfer does not seem excessive. The transfer proposal will move existing irrigation to the subdivision. I anticipate any injury from this transfer proposal.

ENLARGEMENT OF USE:

This water right was originally licensed as a supplemental right. However, the water user used this water right as a primary right. This has been allowed on previous transfers and mitigation plans. Whereas this is an acre for acre exchange, this use would be considered acceptable according to previous transfers.

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 largest issue for this transfer is the determination of whether these rights are supplemental or primary water rights. By allowing these to be used for mitigation and transfers the owner of the right has established that they should be considered a primary right.

There are two overlapping water rights. One is an application for permit that is currently in the basin 63 hold. The second overlapping right is the domestic right for the subdivision, 63-31745. This transfer will share the same wells and water system used in 63-31745. However, this transfer will supply the irrigation needs for the common areas. There should be no serious issues with overlapping water rights.

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.