

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 69649 IN THE)
NAME OF WARD LAND & LIVESTOCK)
LLC _____)

**PRELIMINARY ORDER REJECTING
APPLICATION FOR TRANSFER**

This matter having come before the Department of Water Resources (Department) as a result of an application to transfer water rights, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On March 16, 2001, Ward Land & Livestock LLC (applicant) applied to the Department for authorization to change the point of diversion, place of use, nature of use and period of use for 0.07 cubic feet per second of water diverted from ground water in Cassia County under water right 43-13067. The transfer application, designated no. 69649 by the Department, proposes to convert 4.7 acres of irrigation in the NW¼SE¼, Section 10, Township 12 South, Range 26E, B.M., to commercial and stock water use to provide water for a dairy located in Sections 14 and 15, Township 11S, Range 23E, B.M.

2. Idaho Code §42-222 says, in pertinent part:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in section 42-202B, Idaho Code, the change will not adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates, and the new use is a beneficial use, which in the case of a municipal provider shall be satisfied if the water right is necessary to serve reasonably anticipated future needs as provided in this chapter. The director may consider consumptive use, as defined in section 42-202B, Idaho Code, as a factor in determining whether a proposed change would constitute an enlargement in use of the original water right.

3. On December 10, 2003, the Department mailed the applicant a letter asking him to provide additional information regarding crop history at the original place of use authorized under water right 43-13067. In the letter, the Department informed the applicant that if they did not respond to the request within 30 days, the Department would reject the transfer application.

4. The Department has not received a response from the applicant to the request for additional information.

CONCLUSIONS OF LAW

1. Without the additional information requested from the applicant, the Department cannot ascertain that the change in water use proposed in transfer application no. 69649 will not result in an enlargement in use of water right 43-13067.

2. The Department should reject transfer application no. 69649.

ORDER

IT IS HEREBY ORDERED that transfer application no. 69649 in the name of Ward Land & Livestock LLC is **REJECTED** without prejudice.

Dated this 14th day of May, 2004.



GARY SPACKMAN
Chief, Water Allocation Bureau