

MEMORANDUM

TO: Transfer No. 81879
FROM: Phill Hummer
DATE: 09/05/2017
RE: Evaluation of Application

This transfer proposes to replace the point of diversion on the water right with a new well to be located in the same quarter quarter as the original point of diversion. This new POD will allow the owner to construct a new well that is separate from the diversion system of the original water right.

The site is located on the southwest side of the intersection between W Franklin Rd and S Orchard St in Boise Idaho.

Contact person for the applicant is Lori Graves with SPF Water Engineering. She is authorized to submit information but not to sign on behalf of the applicant.

Deviations from Transfer Policy Standards

The transfer application includes a notice of change in water right ownership that splits water right no. 63-29435 into 63-34438 and a remaining portion (still no. 63-29435). The City of Boise Parks and Rec Department filed this transfer application for water right no. 63-29435 but it will affect the City of Boise's portion of the right claimed in the ownership change.

The applicant checked the box on the application indicating the addition of a point of diversion. However, the applicant's representative clarified that the "addition" is to the historic system of water right no. 63-29435. So the intent of the transfer application is for right no. 63-29435 to be split into 2 water rights with the remaining portion retaining the historic point of diversion and the new water right diverting out of the new proposed point of diversion.

Summary of Information Submitted

Authority to File:

The application is signed by Steve Burgos. He is listed on the City of Boise's webpage as the Director of the Public Works Department. Although not directly part of the Department of Parks and Recreation, he is a City employee and should be considered to have the authority to submit and sign on behalf of the City.

Water Right Validity:

The partial decree was issued on 05/29/2009 authorizing the use of water at the Franklins School site. The applicant provided information that the school was demolished in the years 2009 and 2010. But an application to lease the right was received by the department on 11/04/2008 and approved for an indefinite term. The term was updated on 09/24/2015 to a two year lease. Then on 05/11/2016 the water right owner at that time (Independent School District of Boise City) submitted a request to have the right released from the Water Supply Bank, the request was

granted and the right was released on 12/31/2016. The five year period of nonuse related to forfeiture began on the date the right was released from the Bank. The right is still within the 5 period of nonuse which ends 12/31/2021 so the right is presumed to be valid.

Injury to Other Water Rights:

The proposed new well/POD is within the Boise Front GWMA and the Basin 63 GW Restricted Area. The SRBA claim filed by the School District indicates the existing well is 58 ft deep. At this depth it is likely all the water diverted from the well has been cold water. The City plans to drill a new well targeting water between 100 and 150 feet. Hot water has not been encountered at this depth yet so this new well will not impact the geothermal resource.

Since the historic use of water authorized by the right was water shallower than 200 feet, diverting water (even the full amount of the right) from a new well with a production zone shallower than 200 feet should not cause injury to senior Boise River water users. Since the historic use of the water right was supplemental to surface water delivered by Nampa Meridian Irrigation District, the portion claimed by the City of Boise will be conditioned to require the use of surface water first.

Enlargement of Use:

Water right no. 63-29435 was split according to property ownership, the City of Boise owns 83 percent of the property at the place of use so the number of acres and the diversion rate was rounded up in favor of the City. The remaining portion was rounded down so that the two rights combined equaled the number of acres and diversion rate of the original right. No combined limits are needed to prevent an enlargement. Since the right was historically used as a supplemental right the split right should have supplemental conditions added to ensure it remains supplemental.

Local Public Interest:

Water right no. 63-29435 was used to irrigate the field space around the Franklin School but there is no longer a school at the place of use. The ownership change filed with the transfer application updates the right to reflect the current ownership. Changing the POD for the City's water right to a newly constructed well will allow the city to make better use of the groundwater by utilizing a well constructed with modern technology and techniques and to modern standards. Irrigating a public park serves the local public interest.

Beneficial Use/Conservation of Water Resources:

Changing the diversion system to a newly constructed well should improve the system. The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary

Water Right Overlap

There are no other active water right POD within the NENW of section 17, township 03N and range 02E besides the POD for the remaining portion of 63-29435. The only other active water rights that overlap the place of use are rights held by irrigation companies and rights that authorize municipal beneficial use.

Water Supply Bank

Right no. 63-29435 was leased to the water supply bank on 11/04/2008 for an indefinite time. The lease was updated on 09/24/2015 to a 2 year lease. The City requested that the right be release on 12/31/2016, that request was granted.

Discussion**Conditions**

If approved the following changes should be made to the conditions of water right no. 63-34438

- Add condition 046 because the proposed new POD is a groundwater well.

- Update condition C18 to T19.

- Add standard transfer conditions T07 and T08.

- Add supplemental groundwater conditions WB7, 105 and 065.

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.