

MEMORANDUM

TO: Transfer No. 80941

FROM: Phill Hummer

DATE: original app 08/29/2016 amended app 01/18/17

RE: Evaluation of Application

The transfer application proposes to move 4.8 acres authorized for irrigation under water rights no. 63-7195 and 63-7018 to the Mountain View School site. This will allow the School District to irrigate when surface water delivered from Nampa Meridian Irrigation District is not available. The place of use is located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of sec 31, T04N, R02E, the property is the site of Mountain View Elementary School.

Contact person for the applicant is Lori Graves with SPF Water Engineering.

Deviations from Transfer Policy Standards

The original transfer application proposed to split and move 3 acres from water right no. 63-29435 along with the 2 acres from right no. 63-7195. However, the applicant's consultant informed the department the School District no longer owned water right no. 63-29435. They thought they had kept the water right despite sale of the property. The amended application proposes to move 2.8 acres from water right no. 63-7018 instead.

The application proposes to create an 8 acre PPU around the school site. However, the applicant can irrigate any land within a 40 acre tract under either transferred water right (not more than 2.0 and 2.8 acres) without having to file a transfer and the entire school property is within one QQ. Also the school itself is already constructed so the land to be irrigated will not be changed or rotated around in anyway. As the department is trying not to create unnecessary permissible places of use and the proposed PPU in this application does not allow for any additional flexibility to irrigate the transfer should be approved without a PPU.

The ArcMap shape of the POD for water right no. 63-7195 is located in the SWNE of section 36 of township 04N and range 01E. The face of the water right shows the POD should be in the SESW of section 36 of township 04N range 01E. There is a map in the scanned documents from adjudication that shows a more accurate location. The point of diversion will be updated to match the location of the well (according to the wells layer) when this transfer is approved.

Summary of Information Submitted

Authority to File:

The amended application is signed by Maria Greeley. The district's webpage (http://www.boiseschools.org/our_district/board_of_trustees/trustees_and_superintendency/) lists her as the Vice President of the Board of Trustees and as such she is authorized to sign and submit this application on behalf of applicant.

Water Right Validity:

Water right no. 63-7018 is presumed to be valid because the partial decree was issued on 05/29/09 and aerial imagery shows about 6 acres have been irrigated at the place of use within the last five years. The 2.8 acres that have not been irrigated were leased to the water supply bank starting 01/01/15 and are protected from forfeiture. The partial decree for water right no. 63-7195 was also issued on 05/29/09. Since development roughly 6 acres have been irrigated at that school site. The remaining 2 acres are protected from forfeiture by lease to the water supply bank beginning 01/01/15.

Injury to Other Water Rights:

The proposed point of diversion for both water right splits is the well currently used for the City of Boise Parks and Recreation water right no. 63-10750 located within the SW¹/₄SW¹/₄ of section 31, township 04N, and range 02E. This well is within both the Boise Front Groundwater Management Area and the B63 Groundwater Restricted Area. The well was completed on 10/11/96 to a depth of 200 feet and the well log shows the well was constructed with screened intervals at depths of 144-146, 155-170, and 180-195 feet indicating the well produces water at depths shallower than 200 feet. The water temperature was determined to be 40° during a well inspection on 06/24/98, it is assumed the water temperature has not changed much since that inspection and the well still produces cold water, not low temperature geothermal. Diverting additional water from this well will not injure water users of the Boise River if the water to be transferred is diverted from a similar source i.e. shallow groundwater (less than 200 feet).

The well constructed for water right no. 63-7195 was completed on 04/28/69 to a depth of 190 feet, the well log indicates it is screened from 175-180 feet. Water diverted from this well is shallower than 200 feet and tributary to the Boise River. Transferring portions of water right no. 63-7195 to the proposed well should not injure existing water users. The well constructed for water right no. 63-7018 was completed on 11/01/67 to a depth of 74 feet with perforations at 52-73 feet. This well also produces shallow groundwater and transfer to the proposed well should not injure Boise River water users.

Enlargement of Use:

Both water rights authorize ground water as a supplemental source to surface water supplied by Nampa Meridian Irrigation District (NMID). The purpose of the transfer is to authorize supplemental groundwater at the Mountain View School site when surface water from NMID is not available. Since the surface water at the pre-transfer place of use and the proposed new place of use is supplied by the same company and the transferred acres/water will remain supplemental it is assumed that the amount of water used will not change and approval of this transfer will not create an enlargement of use.

Local Public Interest:

This transfer application proposes a change to water rights that will support Mountain View School and Independent School District of Boise City. Since diverting the new water from the well should not injure nearby water users or Boise River water users this transfer proposes changes that benefit local public interest.

Beneficial Use/Conservation of Water Resources:

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.

Discussion

Data entry affected the correct record water right no. 63-7018 (RID 583727) and no. 63-7195 (RID 56854) were added to transfer data entry.

Overlapping rights

There are no overlap issues with the current POD and POU of either water rights proposed to be transferred. The application proposes to use the same well used for water right no. 63-10750 and the applicants have indicated they have a shared use agreement with the current owners (City of Boise). There are no overlapping water rights at the proposed place of use except municipal and surface water (irrigation companies) rights.

Water Supply Bank

2 acres (0.07 cfs and 9 af) of water right no. 63-7195 was leased to the water supply bank starting 01/01/15. The applicant requested this portion to be released on 12/31/16. 2.6 acres (0.06 cfs and 10.4 af) of water right no. 63-7018 is leased to the water supply bank starting on 01/01/15. The applicant submitted a request to have this portion released along with the amended transfer application. Clay Webster at the state office indicated the request will be approved and processed before this transfer application is approved. Approval of this transfer application will not create any water supply bank issues.

Fee

The applicants paid an initial fee of \$200.00 when the original application was submitted, receipt no. W044202. The amended application needed to be advertised so an additional fee of \$50.00 was paid with receipt no. W044895. The amended application falls within the first tier of the fee schedule. No additional fee is required.

Comment Letters

In response to the initial advertisement of the application Dana L Hofstetter with Hawley Troxell Ennis & Hawley LLP sent in a letter in lieu of a formal protest on behalf of Edwards Family LLC. The letter outlines their concern over the protection of the geothermal groundwater in the area of the school. As the proposed point of diversion is an existing well there are no well construction issues. Both portions of the water rights transferred (nos. 63-34234 and 63-34331) will be conditioned restricting the diversion and use of water to cold water.

Notification of the application was sent to the City of Boise when the application was initially advertised and when the amended application was advertised because the applicant indicated the City owns the well identified as the proposed POD.

Summary

If approved the following changes should be made to the conditions:

- Remaining portions
- Replace C18 with T19.
- Replace S39 with X61.
- Remove C05.

Split Portions

- Replace C18 with T19.
- Replace S39 with X61.
- Remove C05.
- Replace W51 with 105, 065 and WB7.
- Add standard conditions 046, T07, T08.
- Add R61.
- Change the text condition to Mountain View Elementary School.
- Add condition 073 to restrict the use to cold water.

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.