

MEMORANDUM

TO: Transfer No. 79832
FROM: Patrick Kelly
DATE: August 24, 2015
RE: Evaluation of Application

The transfer proposes to change the POU for water right 57-7051A to reflect how water is currently being used on the ground. A third pivot has been constructed on the SE corner to the property and sprinkler lines in the NW corner of the owners land have been developed which the Cantrell's would like to describe by existing ground water right. There is a pumping pond on the west end of the property that collects water from the well, Snake River, and Shoofly Creek that feeds the other 1.5 pivots.

The site is located in Owyhee County two miles west of CJ Strike Reservoir, south of the Snake River.

Contact person for the applicant is Dana L Hofstetter of Hofstetter Law at 608 W Franklin St, Boise, ID 83702 , 208-424-7800, dana@idahowaterlaw.com

Deviations from Transfer Policy Standards

Aerial imagery suggested that the right had gone through a period of non-use greater than five years. This would disallow any transfer to be completed or associated with the right. However, LandSat imagery from 2014 showed the Cantrell's resumed use of irrigation on their SE pivot. This will allow the transfer to be processed.

A portion of 57-7051A is leased to the Water Supply Bank. Communication with the State Office confirmed that the lease is in the process of being rescinded due to non-compliance. Thus, normal processing steps for transfers involved in the WSB will not apply.

Summary of Information Submitted

Authority to File: The Application for Transfer of Water Right (Application) was submitted and signed by Ted and Sandy Cantrell (Applicants) on February 3, 2015. The applicants are current water right owners of water right 57-7051A. The Cantrell's own the land they propose to transfer right to.

Water Right Validity: Right presumed to be valid since beneficial use for irrigation has been established on the land proven by historical imagery. Cantrell's resumed use in 2014.

Injury to Other Water Rights: Transfer proposes to use ground water within the Bruneau-Grandview Ground Water Management Area. The well has been used in pivot irrigation and no complaints have been received since their resumed use has occurred. Injury to other water rights is not apparent.

Enlargement of Use: Transfer proposes to irrigate 60 acres outside of two pivots in place today. The ground water right is neither a supplemental use nor "stacked". The two pivots in the NW quarter irrigate 119 acres. Surface water rights 2-202A and 57-7100 have a combined use limit of 111 acres. This would require 8 acres of the ground water source to remain within the NW QQ pivots.

Local Public Interest: Review staff has no information to suggest this application is inconsistent with the 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.

Additional Information/Analysis

Additional information was requested to describe the irrigation system in place. The original application did not identify how the three sources on the land were delivered, or how much of each source was used. Proof of beneficial use within the past 5 years was requested to avoid forfeiture concerns. The applicant responded with a map that better described the system. Landsat data was used to prove beneficial use was resumed during the 2014 season. 2015 preliminary imagery has become available since the additional information was requested and confirms claims made in the transfer application.

Discussion

A portion of 57-7051A has been leased into the Water Supply Bank (18 acres totaling 0.45 cfs) on an indefinite lease since 2005. Review from historical imagery suggests that 25 acres of POU within the SW NE QQ did not established beneficial use of water for some period and should have been placed into the bank instead. Correspondence of this issue has been brought to the attention of the Water Supply Bank and the Cantrell's.

Overlapping rights 2-202A & 57-7100 are surface water rights from the Snake River and Shoofly Creek. 57-7051A & 57-7100 share a combined use of 2.55 cfs, 508.5 af with 2 acres of overlap limiting them to a total combined use of 111 acres. The rate and volume grants these two surface rights the standard 0.02 cfs and 4.5 af per acre, making the ground water right non-supplemental and available to "unstack".

2-202A is limited to the irrigation of 60 acres in a single irrigation season. 57-7100 is limited to the irrigation of 53 acres in a single irrigation season. 57-7051A authorizes the irrigation of 60 acres, so then when combined, the Cantrell's can irrigate a total of 171 acres of irrigation. The permissible place of use was amended to describe a total of 171 acres. The PPU for groundwater will then describe 60 acres within the 171 PPU. If the land owners do not overlap their water rights from the surface water sources, it is possible to fully irrigate the PPU when all sources are combined.

2-202A and 57-7100 were brought in as associated rights. A condition on these rights referenced 57-7051A with the water supply bank and a combined limit of 3.22 cfs and 161 acres. This condition was removed from these rights since 57-7051A's bank lease was rescinded 8/25/2015. Also, the combined use of these rights was determined by my review for 171 acres instead of the 161 identified by condition. The 3.22 cfs rate is assumed to be associated with 0.02 cfs/acre * 161 acres (= 3.22 cfs). A condition of X35 was not added to the associated rights identifying all three rights since the POU for the surface water rights are different, it wasn't an existing condition on these rights pre-transfer, and placing 57-7051A onto the existing X35 condition would only be additive.

The partial decree for 57-7051A was issued 2/21/2003. Adjudication records were migrated prior to the processing of this transfer. No further action required.

Summary

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.