

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT
TRANSFER NO. 79220

This is to certify that: VAN VLIET DAIRY LLC
26257 MATTHEWS RD
PARMA, ID 83660

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-11245	WR/LICENSE	5/24/2000	0.340 cfs	39.1 af	N/A	N/A	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-11245	NO	NO	NO	YES	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-11245	63-11245	0.340 cfs	39.1 af	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.340 cfs	39.1 af	N/A	N/A		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 4th day of April, 2014.


Western Regional Manager

Transfer No. 79220

WATER RIGHT NO. 63-11245
As Modified by Transfer No. 79220

In accordance with the approval of Transfer No. 79220, Water Right No. 63-11245 is now described as follows:

Right Holder: JOAN D VAN VLIET Or
GARY VAN VLIET
27859 SCOTT PIT RD
PARMA, ID 83660

Priority Date: 5/24/2000

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
STOCKWATER	01/01	to 12/31	0.340 cfs	39.1 af
			0.340 cfs	39.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NENE	Sec 14 Twp 05N Rge 06W CANYON County
GROUND WATER	NENE	Sec 14 Twp 05N Rge 06W CANYON County
GROUND WATER	NENE	Sec 14 Twp 05N Rge 06W CANYON County

PLACE OF USE: STOCKWATER

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	06W	14	X																

CONDITIONS OF APPROVAL

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
2. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Transfer No. 79220

JAN 31 2014

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESWATER RESOURCES
WESTERN REGION

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change

1. APPLICANT(S) VAN Vliet Dairy LLC Phone 722-4059
2. MAILING ADDRESS 26257 Matthews Rd. City Parma
State Idaho Zip 83660 Email ryangvv@gmail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) required for water right ownership changes; see
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 63-11245

- ☒ Attach a copy of the water right(s) as recorded, available at _____, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 34 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at _____, *Water Right Transfers, Online Resources*.

N/A

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
5N	6W	14		NE	NE		Canyon	WELL	0015100
5N	6W	14		NE	NE		Canyon	WELL	
5N	6W	14		NE	NE		Canyon	WELL	

2WV 3-26-14

23WELLS

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

see attached paper

- b. Who owns the property at the point(s) of diversion? Gary VanVliet Dairy
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

☐ ☒

undergone a period of five or more consecutive years of non-use,

☐ ☒

currently leased to the Water Supply Bank,

☐ ☒

currently used in a mitigation plan limiting the use of water under the right(s), or

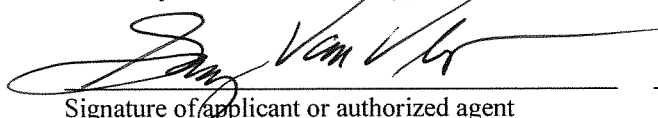
☐ ☒

currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe _____

7. **MAP** - ☐ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at _____ provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.


Signature of applicant or authorized agent

GARY VAN VLIET ^{MANAGING} MEMBER
Print name and title if applicable

1-29-14
Date

Ryan VanVliet
Signature of applicant or authorized agent

Ryan VanVliet
Print name and title if applicable

1-29-14
Date

9. **FEE** - ☐ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The _____ is available at www.idwr.idaho.gov, *Water Right Transfers, Step 4* and in the _____.

FOR DEPARTMENT USE ONLY

Transfer includes 5 pages of attachments. Received by MB Date 1/31/14
Fee paid 500- Date 1/31/14 Receipted by MB Receipt # 11041814
Preliminary review completed by KW Date 3/25/2014

Page _____ of _____

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A**

Current Water Right No.: 63-11245

Current Owner: JOAN D VAN VLIET
GARY VAN VLIET

Priority Date: 5/24/2000

Origin: Water Right

Status: Active

Basis: License

Source

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>
STOCKWATER	01/01	to 12/31
	<u>Total Diversion</u>	

Tributary

<u>Diversion Rate</u>	<u>Annual Volume</u>
0.34 CFS	39.1 AF
0.34 CFS	39.1 AF

Location of Point(s) of Diversion

GROUND WATER
CANYON County

NE1/4NE1/4 Sec. 14, Twp 05N, Rge 06W B.M.

GROUND WATER
CANYON County

NE1/4NE1/4 Sec. 14, Twp 05N, Rge 06W B.M.

Place of Use

STOCKWATER Within CANYON County

T05N R06W S14 NENE

Licensed Date: 6/6/2001

Attachment 1

Untitled

The proposed location of the additional point of diversion (well), would be located the minimum distance from the current well, 0015100, for ease of plumbing systems together, location of power, and close proximity to the pump house. The pump house could be a location for a measure device, as well as a secure location for the control works.

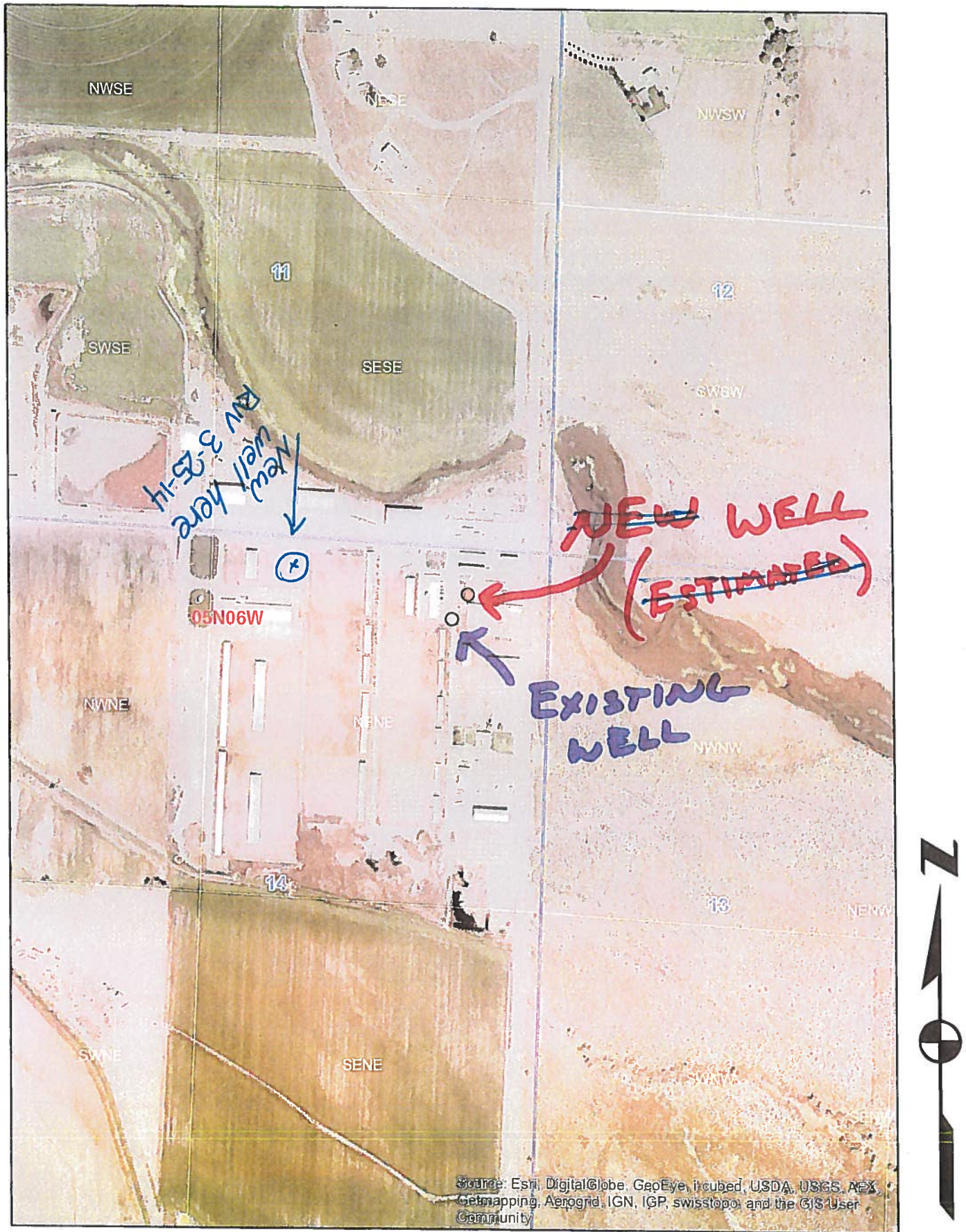
An additional point of diversion is necessary due to lack of production in current well. Valley Pump & Equipment estimates the well to only produce approximately 20 gallons per minute, when at one time we were able to pump 80 gallons per minutes, with minimal draw down. In order to maintain operations of our dairy, we will have to have an additional well to operate on while the current well is repaired, and in the future if this or a like problem was to happen.

RECEIVED

JAN 31 2014

WATER RESOURCES
WESTERN REGION

Van Vleet Application for Transfer



0 325 650 1,300 Feet

Attachment 3

No. W 59599	Due no later than Feb 28, 2014 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE	1. Mailing Address: Correct in this box if needed.		GARY R VAN VLIET 26257 MATTHEWS RD PARMA ID 83660			
	VAN VLIET DAIRY LLC GARY R VAN VLIET 26257 MATTHEWS RD PARMA ID 83660		3. <u>New</u> Registered Agent Signature:*			
4. Limited Liability Companies: Enter Names and Addresses of at least one Member or Manager.						
Office Held	Name	Street or PO Address	City	State	Country	Postal Code
MEMBER	GARY R VAN VLIET	26257 MATTHEWS RD	PARMA	ID	USA	83660
MEMBER	JOAN D VAN VLIET	26257 MATTHEWS RD	PARMA	ID	USA	83660
MEMBER	RYAN VAN VLIET	27859 SCOTT PIT RD	PARMA	ID	USA	83660
5. Organized Under the Laws of:		6. Annual Report must be signed.*				
ID W 59599		Signature: Joan van Vliet		Date: 12/16/2013		
		Name (type or print): Joan van Vliet		Title: Co owner		
Processed 12/16/2013		* Electronically provided signatures are accepted as original signatures.				

Attachment 5



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 4, 2014

VAN VLIET DAIRY LLC
26257 MATTHEWS RD
PARMA ID 83660

Re: Transfer No. 79220
Water Right No. 63-11245

Transfer Approval Notice

Dear Water Right Holders

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,



For:

John Westra
Western Regional Manager

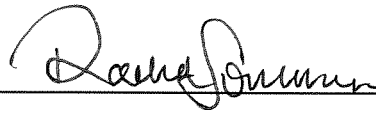
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2014 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**Re: Transfer No. 79220
Water Right No. 63-11245**

**VAN VLIET DAIRY LLC
26257 MATTHEWS RD
PARMA ID 83660**

A handwritten signature in cursive script, reading "Rachel Sommer", is written over a horizontal line.

**Rachel Sommer
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Transfer No. 79220
FROM: Kay Walker *KW*
DATE: March 24, 2014
RE: Evaluation of Application

The transfer proposes to add an additional well to an existing dairy.

The site is located on the east side of the Snake River on Idaho border, approximately 1 mile northeast of Goose Egg Island and 3.7 miles southwest of Parma.

Summary of Information Submitted

Authority to File:

Applicant is the dairy. The owner of the property is G. J. Van Vliet Dairy LLC. The water right owners are Gary and Joan Van Vliet. The application form was signed by Gary Van Vliet and his son, Ryan Van Vliet. Since the application is signed by the water right owner whom is also the land owner, I believe the authority to file has been satisfied.

Water Right Validity:

Right presumed to be valid based on license issued in June of 2001. SRBA is not applicable to this right permitted after 2000. Aerial photography shows the dairy facilities in place. No reason to believe the right is not valid at this time.

Injury to Other Water Rights:

There should be no injury to other rights since the amount of water is not being changed. There is no increase in rate of diversion or quantity proposed under this application.

Enlargement of Use:

No enlargement should occur as long as correct conditions are placed upon the right. No increase in rate or volume is proposed.

Local Public Interest:

It is within the local public interest to allow an additional well to be drilled to supply water to cattle so they don't go thirsty.

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

This transfer was filed on a short form since only adding a point of diversion to an existing system. The form was not filled out quite right so requested they come in and amend the form. Item 5 was completed with only one point of diversion listed but noted that 2 wells were to be used. In light of the brand new application they filed (63-33932) which shows they will be using 3 wells, I requested the amended application before we could prepare final.

Since the transfer is adding a well within the same location as existing well, no advertisement is required. The application for permit that was filed on March 24th will be advertised so any one in area with issues with this dairy can protest that filing if they wish.

Overlapping rights at existing &/or proposed PODs are 63-21768, a domestic right and an application (63-33932) we requested they file to cover the commercial use at the dairy. The commercial use had been covered under Permit 63-31231 but lapsed for failure to submit proof of beneficial use.

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.

Condition 046 is applicable since a new well is proposed.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

February 19, 2014

VAN VLIET DAIRY LLC
26257 MATTHEWS RD
PARMA ID 83660

RE: Application for Transfer of Rt. 63-11245

Gentlemen:

We have received, and are in the process of reviewing, the above referenced application for transfer to add a point of diversion to your water right. We find that before we can proceed with this application, you need to cover the additional water uses for your dairy. We find that Rt. 63-11245 is the only valid water right for your water use at this dairy. Rt. 63-11245 only covers water for the stock portion of your dairy use. There is no water right for the commercial portion of your water use.

In May of 2001, you filed an application for permit to cover the commercial use at your dairy. We issued Permit 63-31231 on December 7, 2001, to cover the commercial portion of your dairy use. However, in May of 2002 you failed to submit proof of beneficial use of the permit and it was lapsed.

Before we can proceed with your application for transfer it would be helpful if you had all of your existing water uses covered with the required water rights. You need to file an application for permit for your commercial use for your dairy before we will proceed with processing your transfer application. Once you have submitted the application for permit we will proceed with transfer processing. You could also submit proof of beneficial use, with the proof fee, and we would be able to issue a water right license based on the system that has been in place. We have enclosed an application for permit form and proof of beneficial use form for your convenience. We have also included a proof reading report of the permit you previously had recorded for this use.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Enclosures