



State of Idaho

DEPARTMENT OF WATER RESOURCES

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February 29, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

MVCP LLC
474 E 550 S
BURLEY ID 83318

Re: Application for Transfer 77712 MVCP LLC

Dear Applicant,

Your consultant, Greg Sullivan, has replied to some of the items identified in my 02-21-2012 initial review letter related to your application for transfer. I am writing to respond to his questions and explain the issues identified through continued review of the matter.

- Rights 45-13981, 45-13982, 45-2383, 45-718, 45-7125 & 45-7317 are currently in the name of the Searles as individuals. I was under the impression that all the rights would be in the name of MVCP LLC after the transfer. As I noted, I haven't reviewed the ownership documentation at this time. If the name change is not occurring through the transfer, no additional fees would be required.
- The newer distribution map Greg submitted shows how the system is connected when including the transport of water through the Burley Irrigation District's (BID) J-canal. The transport agreement submitted with the application expired 12-31-2011. Authorization from BID to use the canal as part of this combined system in the future will be needed.
- The map doesn't show how water from the western wells would be able to be used in the eastern portion of this large permissible place of use (PPU). The system displayed on the map shows how all the wells can provide water to the lands to the west through the canal, but no system is shown to deliver water from the west to the east. If the system cannot provide water from all the wells to all the described place of use (POU) then it isn't an acceptable PPU, but more of a proposal for alternate points of diversion for existing PPUs. If this is the reality of the system(s), the transfer should be divided into separate PPU groupings on separate applications identifying all the actual alternate points of diversion that can physically provide water to the identified lands.
- The application proposes to split surface water Rights 45-690 & 45-691 leaving the stock water use associated with the currently described lands rather than the proposed 3,498 acre PPU. Right 45-690 authorizes 3.20 cfs for irrigation use and 0.05 cfs for stockwater with a total authorized diversion rate of 3.20 cfs. The authorized rates of diversion by use do not add up to equal the total diversion, but are limited to a lesser amount. To separate the stockwater use from the irrigation use, the irrigation use must be reduced by the same amount or 0.05 cfs associated with 2.5 acres irrigation. This acre reduction would be reflected in the acre limit of this right and combined limits. Right 45-691 has separate rates authorized for both uses and can be split without an adjustment to irrigation use.

- Rights 45-7118, 45-7125 & 45-7317 were decreed by the SRBA court with three common combined limit conditions (1) identifying surface water associated with 102 acres of the combined 630 authorized irrigated acres, (2) requiring use of surface water first when available on the 102 acres, and (3) reducing the authorized acres irrigated under the ground water rights if the surface water is removed. Transfer 5275 was approved on 12-11-1998 including these conditions to address enlargement concerns. These three rights were combined in a common PPU system with additional acres and an overlap of surface water that was originally identified under 45-7317 POU.
- The 102 acres identified with overlapping surface and ground water sources now has several rights associated as part of a common PPU from a more recent transfer, but supplemental conditions are directed at the original three specific rights. Confirmation of use of water from BID shares on the 102 acres should be provided to verify continued supplemental use of the groundwater rights on these acres. Groundwater rights will also not be authorized for irrigation on those acres without the continued use of surface water per conditions on these rights.

Greg has received and submitted a copy of the lien holder's agreement to the transfer as proposed.

I will not pursue further processing on this application until the necessary information regarding the proposed new distribution system has been resolved. Review of the ESPA modeling, ownership documentation, or further database and GIS work may be affected by the outcome of additional information provided. I am available to answer any questions you or your consultant have or provide additional information regarding any of the issues I have identified above. I look forward to assisting you to resolve this matter in a timely manner.

Sincerely,



Pamela S. Skaggs
Water Rights Supervisor

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