

MEMORANDUM

TO: Transfer No. 77372

FROM: Angie Grimm

DATE: December 5, 2011

RE: Evaluation of Application

The transfer proposes to change the ownership and the point of redirection for right 61-293C to a point approximately 1¼ miles downstream from the current point of redirection on Little Canyon Creek. The point of diversion from Sand Springs Gulch Creek and the point of injection into Little Canyon Creek will remain the same for this right.

The proposed point of redirection is located approximately 400 ft west of Bannock Ave, approximately ¼ mile north of the intersection of Bannock Ave and Bennett Rd. The place of use for this right is south of Morrow Reservoir Rd at the intersection with Bostic Ln, approximately 2 miles north of Glens Ferry.

Contact person for the applicant is **Kristin Moore, Rocky Mountain Environmental Associates Inc.**

Deviations from Transfer Policy Standards

Department standards call for identifying P/Ds to the 10-acre tract when confirmed. The application indicates the proposed point of redirection is to be in the SESWSE of Section 19 T5S R10E. The map included with the transfer indicates the proposed point of redirection is very close to the QQQ line between the SESWSE and NESWSE. The point of redirection is being recorded only to the 40 acre-tract to allow for flexibility in this instance. Confirmed this is ok via telephone conversation with applicant's representative on 12/5/2011.

Summary of Information Submitted

Authority to File: The applicant included a warranty deed transferring the property associated with this right from the current owner of record (Idaho Fresh-Pak Inc) to North American Foods LLC. An Amended Certificate of Authority was submitted confirming North American Foods LLC officially changed its name to Idahoan Foods LLC (the transfer applicant). Idahoan Foods LLC has authority to change the right.

Water Right Validity: Right presumed to be valid because the partial decree was issued 7/31/2003 and recent beneficial use (irrigation of place of use) confirmed by 2011 aerial photography.

Injury to Other Water Rights: The diversion rate authorized and the total number of acres irrigated will not change as a result of this transfer. The applicant is proposing to move the point of redirection approximately 1¼ miles downstream on Little Canyon Creek. The nearest

downstream P/D to the proposed point of rediversion is approximately ¼ mile away and owned by a different owner for a different P/U. The rights are within Water District 61D and thus subject to regulation by the watermaster. Should this transfer be approved, the right will be conditioned to allow for regulation by the watermaster thru requiring installation of measuring devices and lockable controlling works. If the water right owner continues to divert at the rate within their water right, there should be no injury.

Enlargement of Use: The diversion rate and number of acres irrigated will not increase as a result of this transfer. The right is used in combination with shares from King Hill Irrigation District per a water supply bank application on file for the right. Confirmed water diverted under this right is comingled with shares from King Hill Irrigation District via phone conversation with applicant's representative on 12/5/2011. There are no tributaries to Little Canyon Creek between the existing and proposed points of rediversion. Therefore, it is not likely the water supply at the new point of rediversion is any different than that at the current point of rediversion. No enlargement is likely to result should this transfer be approved.

Local Public Interest: Allowing the applicant to change the point of rediversion for their right to a location that is more accessible and efficient for their irrigation system serves 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.

Discussion

Data entry affected the correct record for water right 61-293C. The right was decreed in the SRBA on 7/21/2003, the results of which were migrated to the water right record prior to data entry of this transfer.

Right 61-293D uses the same point of diversion and point of injection as the right proposed for transfer. These points are not proposed to be changed by this transfer application. The current point of rediversion is used by rights 61-293D, 61-12191, 61-12192, 61-12197, and 61-12198 as well as the right proposed for transfer. The proposed point of rediversion could possibly be the same point of diversion as right 61-10642 (within the same QQ and Department's map system indicates it is very close to the proposed point of rediversion), but there is no definite evidence on file indicating these are one and the same points, thus no informational condition will be placed on this right. Right 61-10642 is used for irrigation on the other side of Little Canyon Creek. There are no other overlapping rights for the existing and proposed points of diversion.

King Hill Irrigation District shares are also used on the place of use for right 61-293C. 61-293D is an irrigation water right having the same 40 acre tract place of use as the right proposed for transfer. Right 61-293D authorizes 10 acres of irrigation within the 40 acre-tract, but adjudication information on file indicates the 0.18 cfs authorized for diversion under right 61-239D is being used for other purposes, such as stockwater, on the 0.8 acre piece of property the original owner retained. It is highly unlikely any portion of 61-293D is being used on the applicant's property considering the historic diversion system mainline for rights 61-293C and 61-293D has been severed to the applicant's property per the applicant representative's cover

letter submitted with the transfer application. There are no other overlapping rights for the place of use.

The parent right of the right proposed for transfer was 61-293A. 61-293A authorized diversion of 0.58 cfs for irrigation of 32 acres. Right 61-293A was split into rights 61-293C and 61-293D during the SRBA process. Right 61-293D authorizes diversion of 0.18 cfs for irrigation of a maximum of 10 acres. Right 61-293C, as decreed in the SRBA, authorizes diversion of 0.395 (0.40) cfs for irrigation within a 39.2 ac place of use, without an acre limitation. Version 1 of the AJ recommendation included a condition of limiting irrigation to 22 acres; however, this condition was not carried over to version 2, which was ultimately decreed. There is no documented reason for removing this condition. Considering the parent right was limited to 32 acres of irrigation, the transfer provides an opportunity to correct the AJ oversight and add the condition limiting irrigation to 22 acres under right 61-293C. The transfer approval has been drafted accordingly.

Watermaster comments will be requested from WD 61D Little Canyon Creek considering the point of rediversion proposed for change is on Little Canyon Creek.

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.