

MEMORANDUM

TO: Transfer No. 77041

FROM: Angie Grimm

DATE: October 19, 2011 Amended December 15, 2011

RE: Evaluation of Application

The transfer proposes to change the ownership, change/add PDs, and create a large PPU for the following 22 water rights; 51-2444, 51-2445, 51-2258, 51-2259, 51-7108A, 51-7108B, 51-7127A, 51-13005, 51-13006, 51-13007, 51-13008, 51-13009, 51-13011, 51-13014, 51-13029, 51-13030, 51-13031, 51-13032, 51-13033, 51-13034, 51-13035, and 51-13037. The transfer proposes to create an integrated system for diversion of these rights from 13 wells (11 existing 2 proposed new) for irrigation. The 22 water rights when combined will be limited to irrigation of 3,925.3 acres within the 5,156 acre PPU. The applicant proposes to irrigate approximately 3,646 acres within the PPU and place the remaining water right(s) in the Water Supply Bank (220.3 acres of which are already in the bank via rights 51-13005, 51-13006, 51-13007, 51-13011, 51-13014, 51-13035, and 51-13037).

The site is generally located between E 4000 N and E 4400 N from N 500 E to approximately ¼ mile west of the county line between Twin Falls County and Owyhee County, approximately 9 miles northwest of Castleford within the Blue Gulch Critical Ground Water Area (BGCGWA).

Contact person for the applicant is **Greg Sullivan, Brockway Engineering PLLC**.

Summary of Information Submitted

Authority to File: Applicant submitted a Quitclaim Deed documenting the transfer of the entire proposed PPU property from Mike Standlee, Dusty Standlee, and M & W KMA LLC to Standlee Family Limited Partnership. These individuals/entities are the owner of record for the following rights proposed for transfer; 51-2444, 51-2445, 51-2258, 51-2259, 51-7108A, 51-13005, 51-13006, 51-13007, 51-13008, 51-13009, 51-13011, 51-13014, 51-13030, 51-13032, 51-13034, 51-13035, and 51-13037. Water rights 51-7127A, 51-13029, 51-13031, and 51-13033 are currently in the name of George Anthony. Water right 51-7108B is currently in the name of Thomas C. McClain Farms Inc. Upon request, warranty deeds documenting the transfer of property from George Anthony to Michael Standlee and Dusty Standlee and Melvin and Ruth Harder (current PU WR 51-7108B) to M & W KMA, LLC were submitted (See email correspondence with applicant's representative dated 10/14/2011). Those warranty deeds with the Quitclaim Deed submitted demonstrates the applicant is the current owner of the water rights and therefore has authority to make the changes requested via this transfer application to those rights.

Water Right Validity: Rights 51-13005, 51-13006, 51-13007, 51-13008, 51-13009, 51-13011, 51-13014, 51-13035, and 51-13037 presumed to be valid because the partial decree was issued on 9/28/2007, within the past five year period. Rights 51-2258, 51-2259, 51-2444, 51-2445, 51-7108A, 51-7108B, 51-7127A, 51-13029, 51-13030, 51-13031, 51-13032, 51-13033, and 51-

13034 were all decreed prior to the start of the 2006 irrigation season (not within the past five year period). Irrigation of land under these rights was verified via 2009 aerial photography.

Injury to Other Water Rights: Injury should not occur under this proposal presuming use of the two new wells proposed does not interfere with nearby wells. The applicant proposes to use all the existing wells historically used for diversion of the water rights except one (PD currently listed under water right 51-7108A in the NW SE SW Section 35 T9S R12E). All the wells are within the BGCGWA and the Trust Water Area. Use of these wells in an integrated system for irrigation of ground that has historically been irrigated in this area should not negatively impact surrounding wells or water rights. However, as ground water rights, use of the PDs is subject to reasonable pumping level provisions of Idaho Code § 42-226. Considering the applicant is not proposing to increase diversion beyond authorized limits, it is unlikely the proposed changes in diversion of the rights will significantly impact ground water supply in this area.

Enlargement of Use: The diversion rate, annual diversion volume, and number of acres irrigated will not increase as a result of this transfer. The rights have the following combined use limits that will be maintained should the transfer be approved;

1. 51-7127A, 51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 are limited to a total diversion rate of 11.1 cfs and annual diversion volume of 3,608 ac-ft for irrigation of not more than 902 acres (All the rights except 51-7127A in this group also have a combined diversion rate limit of 10.3 cfs),
2. 51-13007 & 51-13008 are limited to a total diversion rate of 6.83 cfs,
3. 51-7108A, 51-13035, & 51-13037 are limited to a total diversion volume of 2,708.4 ac-ft for irrigation of not more than 677.1 acres. Rights 51-13035 & 51-13037 are limited to a combined diversion volume of 1,018.8 ac-ft for irrigation of not more than 254.7 acres, and
4. 51-13005, 51-13006, 51-13011, & 51-13014 are limited to a total diversion volume of 2,140 ac-ft for irrigation of not more than 535 acres.
5. 51-2258 & 51-2259 are limited to a total diversion volume of 2,656 ac-ft for irrigation of not more than 664 acres.

Also, should this transfer be approved, each right will maintain its individual acre limit and a combined use condition will limit use under the rights to a total of 48.69 cfs and 15,631.3 ac-ft for irrigation of not more than 3,925.3 acres within the 5,156 acre PPU in a single irrigation season. The rights proposed for transfer are primary irrigation water rights and will continued to be used as such should the transfer be approved. If the existing diversion limits are maintained, the proposed changes to the rights should not result in an enlargement of the use.

Local Public Interest: Combined use limitations on this system will limit diversion to less than 0.02 cfs/ac, well under the maximum allowable, should this transfer be approved. The use of pivots is an efficient means of irrigation. Allowing the applicant to irrigate land historically irrigated using an integrated system of pipes and pivots will allow the applicant to place approximately 280 acres worth of existing water rights into the water supply bank to allow for further development of land within the BGCGWA, which 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 water right records for the 22 rights proposed for transfer. These rights were decreed in the SRBA and the results migrated prior to data entry.

11 of the proposed PDs are existing PDs for various rights within the transfer. Historically, the following sets of rights have shared common PDs:

1. 51-7127A, 51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034.
2. 51-13007 & 51-13008.
3. 51-2258, 51-2259, 51-2444, & 51-2445.
4. 51-13005 & 51-13011.
5. 51-13006, 51-13009, & 51-13014.

Some of these rights also overlap in PU resulting in combined use limits referenced in the Enlargement of Use section of this review memo. Several of the rights currently have conditions that reference parent rights in the combined use limits. Also, several if not all of the rights proposed for transfer were renumbered from Basin 47 to Basin 51 during the adjudication. An overlap review of the rights from their present PUs back to their licensed PUs was conducted to determine the exact acres of overlap and the current right (child right) containing the overlapping acres. The combined use limits have been updated to reflect those findings and reference the current water right numbers. See the attached chart for details regarding combined use limits and overlap. All rights currently used within the proposed PPU are within the transfer application. There are no other overlapping rights with regard to PU.

Wells A, C & D listed as proposed PDs per Exhibit B of the transfer application are recorded PDs for rights 51-7373, 51-7374, 51-13051, & 51-13051. These rights are for use on dairy land, not part of the proposed PPU for this transfer. The PDs with the overlapping rights just mentioned do not have a recorded capacity limit and the PU for the rights is outside the proposed PPU, therefore these rights do not need to be included in the transfer. The two new wells proposed as PDs are not yet constructed and thus there are no overlapping rights applicable to those wells. There are no other overlapping rights for the PDs.

Most of the updates to the combined limits are fairly straight forward, but I believe my conclusions for those of rights 51-7108A, 51-13035, & 51-13037 may need further explanation in this memo. Currently right 51-7108A has a combined limit indicating this right is limited to irrigation of 862.4 acres and a total volume of 3,204.7 ac-ft when used with right 47-2261. Right 47-2261 has been renumbered (Basin 47 to 51) and split numerous times since originally licensed. My review of the adjudication records and licenses found 80 acres (40 acres of NE SE & NW SE Section 26 T9S R12E) of overlap in rights 51-7108A and 51-13037 (child of 47-2261). Also, 76 acres within the PU of right 51-13037 overlaps with right 51-13035, but is not within the PU of right 51-7108A. Due to the fact that right 51-13037 overlaps both right 51-7108A and 51-13035, I drafted a condition to address the overlap and clarify the combined use limitation. The sum of the PU acres for all 3 rights is (502.4 ac + 138 ac + 192.7 ac) 833.1 ac, when the overlapping acres are subtracted from the sum (833.1 ac – 80 ac – 76 ac) the acre limit of 677.1 acres results. The volume for these rights was derived based on the standard of 4.0 ac-ft/ac for this area (diversion rate was not the limiting factor). Therefore, a combined limit volume of

($677.1 \text{ ac} \times 4.0 \text{ ac-ft/ac}$) 2,708.4 ac-ft was also placed in the combined use limit condition. On another note, the combined volume limit for rights 51-13035 & 51-13037 was corrected from 1,018 ac-ft to 1,018.8 ac-ft. The method of calculating the volume for these rights is clearly referenced in the records ($254.7 \text{ ac} \times 4.0 \text{ ac-ft/ac}$) indicating a simple mathematical error was made. This transfer application provides a means of correcting this oversight.

Rights 51-13007, 51-13005, 51-13011, 51-13006, 51-13014, 51-13035, and 51-13037 all currently have a portion leased in the Water Supply Bank (WSB). Of these rights, only the portion of right 51-13007 leased to the bank is being rented (through 2015). Notification regarding this transfer application was sent to state office WSB staff for comments regarding the rights currently in the bank during processing. Response received 12/14/11, email correspondence in file. Essentially no concerns beyond the requirement that rights must be removed from the bank before used and the applicant must submit new applications to put any additional rights into the bank after transfer approval.

Two wells originally proposed as P/Ds known as Well F & Well G (T10S R12E Sect 2 NW SW) are located on property owned by Jay and Linda Mahaffey per the Warranty Deed submitted via email from the applicant's representative dated 10/14/2011. The email indicates this is the property subject to the Farm Lease Agreement submitted with the transfer application (Attachment 2b). A portion of the integrated system used for irrigation within the proposed PPU is used to irrigate this land per the applicant's representative (via phone conversation 10/14/2011), but this land and associated water rights are not yet owned by the applicant. Therefore, the applicant is not including those rights or land in this transfer application. However, considering the two wells originally proposed as PDs (Well F & G) listed in this transfer are not on the applicant's land, the Department requested the applicant's representative submit a letter signed by the property owner (Jay & Linda Mahaffey) authorizing the applicant to use these wells for the 22 waters proposed for transfer. Email correspondence received with the Amended Exhibit B (dated 11/2/2011) indicated the Mahaffey's did not want to give consent for addition of wells F & G to the water rights proposed for transfer. As a result, the applicant amended the application to take wells F & G off and add 2 new proposed wells.

Applicant indicated in the transfer application that the total irrigation acre limit for the transfer is 3,907.8 acres and total volume limit is 15,212.9 ac-ft. I discussed the rights in this transfer with the applicant's representative via an email I sent 10/13/2011 and during a phone conversation the same day. After going through the individual and combined uses for each right, we concurred that my calculations of 3,925.3 acres and 15,631.3 ac-ft was correct. I did not require the applicant to amend the transfer application to correct these values, because I feel the email correspondence and this review memo is sufficient documentation to demonstrate the applicant's representative is in agreement with the values.

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 two new wells are proposed.

Right	Priority Date	Rate	Total Ac (Previous)	Individual Ac Limit (Previous)	Individual Ac Limit (New)	Vol (Face of WR)	Combined Limit Notes
51-7127A	11/20/1969	0.80	80.0	None specified	80.0	320.0	51-2256 (OC Split 51-13033 & 51-13034), 51-2257 (OC Split 51-13029 & 51-13030), 51-7120 (OC Split 51-13031 & 51-13032), & 51-7127A = 11.10 CFS, 3608 AF, & 902 AC
51-13029	11/16/1962	3.38	169.0	None specified	169.0	676.0	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13030	11/16/1962	1.40	70.0	None specified	70.0	280.0	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13031	3/22/1968	3.61	288.6	None specified	288.6	1,154.4	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13032	3/22/1968	0.39	31.4	None specified	31.4	125.6	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13033	11/16/1962	4.58	229.0	None specified	229.0	916.0	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13034	11/16/1962	1.78	89.0	None specified	89.0	356.0	51-13029, 51-13030, 51-13031, 51-13032, 51-13033, & 51-13034 = 10.3 cfs AND all wrs listed previous w/ 51-7127A limited to 11.1 cfs, 3608 AF, & 902 ac
51-13008	7/24/1968	5.76	320.0	None specified	320.0	1,280.0	51-13007 & 51-13008 = 6.83 cfs (Div rate limit based on same PD. No overlap in PU irr acres)
51-13007	5/22/1968	4.00	200.0	None specified	200.0	800.0	51-13007 & 51-13008 = 6.83 cfs (Div rate limit based on same PD. No overlap in PU irr acres)
51-2258	9/23/1965	2.50	664.0	None specified	664.0	None Listed	51-2258 & 51-2259 = 2656 AF & 664 AC (664 ac PU same both WRs. No div rate combo limit). 51-2258, 51-2259, 51-2444, & 51-2445 same PDs but no combo limit.
51-2259	7/25/1963	4.86	664.0	None specified	664.0	None Listed	51-2258 & 51-2259 = 2656 AF & 664 AC (664 ac PU same both WRs. No div rate combo limit). 51-2258, 51-2259, 51-2444, & 51-2445 same PDs but no combo limit.
51-2444	10/10/1963	3.33	265.9	None specified	265.9	1,063.6	None. 51-2258, 51-2259, 51-2444, & 51-2445 same PDs but no combo limit.
51-2445	11/4/1963	3.49	278.7	None specified	278.7	1,114.8	None. 51-2258, 51-2259, 51-2444, & 51-2445 same PDs but no combo limit.
51-7108B	7/15/1969	0.20	32.6	None specified	32.6	84.9	None. Possibly same PDs as 51-2258, 51-2259, 51-2444, & 51-2445 but no combo limit.
51-13037	10/25/1951	2.43	192.7	None specified	192.7	770.8	51-13035 & 51-13037 = ≤ 0.02 cfs/ac & 1018.8 AF & 254.7 ac. 51-13037 & 51-13035 & 51-7108A = 677.1 ac + 2708.4 AF
51-13035	11/21/1960	1.77	138.0	None specified	138.0	552.0	51-13035 & 51-13037 = ≤ 0.02 cfs/ac & 1018.8 AF & 254.7 ac. 51-13037 & 51-13035 & 51-7108A = 677.1 ac + 2708.4 AF
51-7108A	7/15/1969	3.00	502.4	None specified	502.4	None Listed	51-7108A & 47-2261(51-13037) = 3204.7 AF & 862.4 ac. 51-13037 & 51-13035 & 51-7108A = 677.1 ac + 2708.4 AF
51-13005	12/17/1957	4.40	535.0	None specified	535.0	2,140.0	51-13005, 51-13006, 51-13011, & 51-13014 = 2140 AF & 535 ac. 51-13005 & 51-13011 same PD now.
51-13011	12/17/1957	0.56	535.0	43.0	43.0	273.2	51-13005, 51-13006, 51-13011, & 51-13014 = 2140 AF & 535 ac. 51-13005 & 51-13011 same PD now.
51-13006	11/21/1960	3.55	535.0	492.0	492.0	1,732.4	51-13005, 51-13006, 51-13011, & 51-13014 = 2140 AF & 535 ac. 51-13006 & 51-13014 same PD now.
51-13014	11/21/1960	0.31	535.0	43.0	43.0	151.2	51-13005, 51-13006, 51-13011, & 51-13014 = 2140 AF & 535 ac. 51-13006 & 51-13014 same PD now.
51-13009	11/21/1960	0.36	50.0	None specified	50.0	175.6	None. Same PD as 51-13006 & 51-13014 but diff acres.