

MEMORANDUM

TO: Transfer No. 76427 File

FROM: Angie Grimm

DATE: October 20, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change/add PDs, create a PPU, and change the ownership of water rights 63-32686, 63-32690, 63-32692, and 63-32694.

The site is generally located south of Lewis Ln between Pump Rd and Sky Ranch Rd approximately 1 mile southwest of Lake Lowell.

Summary of Information Submitted

Authority to File: Intermountain Community Bank is the current owner of record for the rights proposed for transfer. The applicant submitted a Special Warranty Deed conveying the property from Intermountain Community Bank to North Gate Partners Inc. with the original transfer application. Upon request, the applicant submitted a Corporation Warranty Deed conveying ownership of the property from North Gate Partners to Todd Hines. An amended application was submitted 10/11/2011 in the name of Todd Hines. The applicant has authority to change the rights. The applicant also submitted a copy of the easement agreement documenting the applicant's access to the PD site proposed in the NWSWNE Sect 10 T2N R3W.

Water Right Validity: The partial decree for each right proposed for transfer was issued on 6/30/2010. Rights presumed to be valid because the partial decree was issued within the past five year period.

Injury to Other Water Rights: Injury should not occur under this proposal provided use of the two existing wells proposed as PDs does not interfere with other nearby wells. One PD proposed by the applicant (SW NE NE Sec 14 2N 3W) is currently the PD for rights 63-32686 and 63-32690. The other PD proposed to be added to the rights (NE SE NW 10 2N 3W) is one of three PDs for rights 63-3597N, 63-32330, and 63-32331. See Discussion section of this memo for further information on these rights with relation to this PD. Since both wells are existing wells that have historically been used, to some extent, for irrigation in the area, it is not likely diversion from the wells would interfere with nearby wells, however as ground water rights, use of the proposed P/Ds is subject to reasonable pumping level provisions of I. C. § 42-226. The proposed P/Ds are within 2 miles of the current PDs (to be removed from the record) for the rights. The proposed PDs are approximately 1.5 miles apart themselves. Considering the applicant is not proposing to increase diversion beyond authorized limits, it is unlikely the proposed PD changes will significantly impact the 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 proposed for transfer are primary irrigation

water rights and will continued to be used as such should the transfer be approved. Use of the rights for irrigation will be limited to the current diversion rate (2.75 cfs total), volume (934 ac-ft total), and previously authorized number of acres (211.9 ac total) within the proposed PPU (317.5 ac).

Local Public Interest: Authorizing the applicant to establish an integrated irrigation system within a larger permissible place of use allows for more efficient land use through rotation of crops and creation of a more efficient water supply system, 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.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Discussion

Data entry affected the water right record for each right proposed for transfer. The partial decree was issued for each right the records were migrated prior to data entry for this transfer.

Each of the rights proposed for transfer originated via an ownership change split of a parent right previously owned by the Montierths. When the property was sold, the Montierths withheld a portion of each of the rights associated with irrigation of the land. Therefore, rights 63-32685, 63-32689, 63-32691, and 63-32693 have the same PU as the rights proposed for transfer. However, these overlapping rights are not being used and are subject to forfeiture until the rights are either put to beneficial use on different land or this land since these rights have been decreed. It is clear from the proposed 211.9 combined limit stated on the application, the applicant does not intend to use these overlapping rights (owned by another entity) for irrigation within the proposed PPU. Also, the property owner Todd Hines filed a permit application, # 63-33491, for a new water right to replace the irrigation use withheld by Montierths. This permit application proposes irrigation of 105.6 acres within the 317.5 acre PPU. There are no other rights overlapping the current PU or proposed PPU.

The current PD for rights 63-32686 and 63-32690 (SW NE NE Sec 14 T2N R3W) is also the PD for three other overlapping rights; 63-32685, 63-32687, and 63-32689. These rights resulted from ownership change splits as discussed above. They are no longer used to irrigate land subject to this transfer. Right 63-32688 is also a PD overlapping right, but the PU is not the same as the rights mentioned above. All of these rights do not need to be included in this transfer, but can be noted as rights that share the same PD in the transfer approval document, should this transfer be approved.

The other PDs authorized for the rights that are proposed to be removed from the system by this transfer have several overlapping water rights due to numerous ownership change splits. All of these overlapping rights are owned by other entities and have different PUs (with exception of the overlapping rights mentioned above). Therefore, these rights will not be affected by and do not need to be included in this transfer.

The well proposed to be added as a PD (NE SE NW 10 T2N R3W) is one of three PDs for rights 63-3597N, 63-32330, and 63-32331. The applicant had Riverside, Inc (driller) conducted a pump test on this well. It produced 5.5 cfs (2467 gpm). See office visit memo of 3/8/2011 with

attachments. Rights 63-3597N, 63-32330, and 63-32331 combined authorize diversion of a total of 2.68 cfs from this well plus 2 other wells. The rights proposed for transfer in this application authorize diversion of a total of 2.74 cfs. $2.68 \text{ cfs} + 2.74 \text{ cfs} = 5.42 \text{ cfs} < 5.5 \text{ cfs}$ (tested diversion rate of well). Additionally, the owner of right 63-3597N (authorizing 1.15 cfs) has filed Transfer No. 77489, which proposes to remove the well in Sec 10 as a PD. There are no diversion rate/system capacity limiting conditions on the rights associated with this PD. Mr. Mike Paskett (the applicant's brother-in-law and former representative for Mr. Hines regarding this application and property) stated there are no other uses from this well by other parties for other water rights. Regardless, the well appears to be capable of producing enough water for all the rights currently associated and proposed to be associated with the well especially since all the rights also have alternative PDs. There are no other overlapping rights applicable.

There was some confusion as to the exact location of the well proposed to be added to the rights in Section 10 T2N R3W. GPS location information was requested during an office visit and submitted by the applicant's farm manager, Mr. Jim Paskett, via phone conversation on September 26, 2011. The coordinates provided (N 43° 31.672" W 116° 40.985") confirmed the proposed PD is located in the NE SE NW Section 10 T2N R3W. An amended application was requested via my letter of September 26, 2011. The amended application was received 10/11/2011. The amended application changed the applicant from Columbia River Farms (Todd Hines' business) to Todd Hines, because the property is in the name of Todd Hines per the Corporate Warranty Deed submitted.

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 n/a since a new well(s) is not proposed.