

MEMORANDUM

TO: Transfer No. 76872 File

FROM: Angie Grimm

DATE: April 7, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes a new point of diversion to supply water for irrigation under decreed water right 63-31744. The transfer, if approved, will separate the right from a diversion rate-limited system and accomplish a change of ownership for the right.

The transfer will provide irrigation water for Lesley's property at Flat Estates Subdivision Lot 5 Blk 1 (Parcel R2855700500), 7551 S Flat Ln, generally located approximately ¼ mile north of the intersection of Poen Rd and Kuna Meridian Rd southeast of Kuna.

Summary of Information Submitted

Authority to File: The transfer applicant submitted a warranty deed (Attachment #6) documenting ownership of the place of use property together with all appurtenances. A change of ownership will be incorporated in processing of this transfer. The owner of this right has authority to file the transfer application.

Water Right Validity: The right is presumed to be valid, because the partial decree was issued on 2/16/2007 within the past five year period.

Injury to Other Water Rights: No injury should occur provided use of the new well does not interfere with nearby existing wells. According to well log data on file with the Department and the transfer application, the proposed P/D is within one mile of and completed in the same aquifer and production zone as the current P/Ds being removed from the right. It is unlikely the change of P/D will significantly impact the ground water supply for other water rights in this area.

Enlargement of Use: The applicant does not propose to enlarge the use. The only change proposed is to create a new diversion system for the right, separate from the historically used diversion system. The right resulted from a change of ownership split during the adjudication process for original parent right 63-7430B. At time of licensing, rights 63-7426, 63-7430A and 63-7430B (63-7430 permit split into A & B at licensing) were limited to a combined diversion rate of 11.15 cfs, the system capacity at the time of

development. Based on rate-limited conditions, the following illustrates the calculation of the diversion rate available to be transferred for this application:

Senior WR 63-7426	6.32 cfs
Junior WR 63-7430A	3.00 cfs
Junior WR 63-7430B	<u>3.08 cfs</u> (Irr use 63-7430C + 63-7430D)
	12.40 cfs (Original limit 11.15 cfs current 10.85 cfs)
12.40 cfs – 11.15 cfs = 1.25 cfs licensed above capacity	
6.08 cfs – 1.25 cfs = 4.83 cfs remainder of system capacity licensed under jr rights	
0.20 cfs (current rate w/out accounting for rate-limit) x 4.83/6.08 cfs = 0.16 cfs	
10.85 cfs (current system rate limit) - 0.16 cfs (available for transfer) = 10.69 cfs	

The diversion rate authorized under the right proposed for transfer will be limited to 0.16 cfs to avoid enlargement. Therefore, the combined rate-limited system condition can be removed from the transferred right. The water rights with the combined rate-limit condition will be brought into the transfer to reduce the total rate by 0.16 cfs (to 10.69 cfs). See Discussion section of this memo for further details on associated rights. The annual diversion volume or extent of beneficial use will not be increased as a result of this transfer.

Local Public Interest: Allowing the owner to use a new P/D within 1 mile of the previous ground water P/Ds to make full beneficial use of the water right for irrigation purposes serves the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use(s) 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

The water right record proposed for change resulted from the split of adjudication record 63-31269. The original parent right for this series of splits is 63-7430B. See attached split tree diagram for details. The partial decree for the right proposed for transfer (63-31744) was issued 02/16/2007. The results were migrated to a water right record prior to data entry of this transfer application. Data entry for this transfer will affect the water right record of 63-31744.

The initial parent for this series of splits, 63-7430, was first split into 63-7430A and 63-7430B during licensing of the permit based on new ownership of the property. The licensing process of 63-7430A, 63-7430B along with 63-7426 concluded these rights share a common diversion system with a capacity of 11.15 cfs. It appears the primary irrigation well was the P/D located in Sec 19. The P/D in Sec 18 was primarily used as a domestic well (portion of right 63-7430B), but both P/Ds were licensed as part of the

rate-limited diversion system for the rights involved. 63-7430B was split several times during the SRBA creating several rights with the same P/Ds for irrigation. See attached split tree for more details on splitting of this series of rights.

Prior to this transfer, the following five water rights originally part of the rate-limited diversion system had P/D changes through various Department actions:

- **63-32160** (Transfer No. 78935) & **63-32329** (Transfer No. 73841) were removed from the system. The rate-limit was considered during the processing of these transfers. The diversion rates of the rights were decreased to account for the rate-limit. The condition limiting the combined diversion rate of the rights remaining in the rate-limited system was lowered to account for removal of the rights from the system. The remaining rights were brought into processing of these transfers as associated rights to change the condition accordingly.
- **63-7430D** (Transfer No. 5604) had a PD change, but the rate limit was not considered in determining the diversion rate of the right for this transfer. The combined system diversion rate-limit condition was removed from the right in the approval of Transfer No. 5604, but was placed back on the right prior to the right being decreed. The condition limiting the combined diversion rate of the rights was not reduced.
- **63-31321** had a P/D change during the SRBA process of the right. The diversion rate of the right was not adjusted to account for the rate-limit. The combined system diversion rate-limit condition was left on the right and the rate was not reduced.
- **63-32335** (Transfer No. 74755) had a PD change. The diversion rate of the right was not adjusted to account for the rate-limit. The combined system diversion rate-limit condition was removed from the right. However, the combined diversion rate was not reduced in the applicable condition nor were the rights remaining in the system modified as associated rights in processing of this transfer. In other words, the combined system diversion rate-limit condition limiting was not modified (63-32335 removed or rate reduced) in the associated rights. Right 63-32335 is still listed in the combined system diversion rate-limit condition of the associated rights, but this condition is not listed on the record of right 63-32335.

Removal of rights 63-32160 and 63-32329 from the combined rate-limited system was accounted for properly during processing of the associated transfers. However, the combined rate-limit for the system was not accounted for when the P/Ds of rights 63-7430D, 63-31321, and 63-32335 were changed through Department actions.

The following actions will occur should this transfer be approved to clarify the situation, but minimize the impact on water rights not directly proposed for transfer (those other than 63-31744):

- Rights 63-7426, 63-7430A, 63-7430D, 63-31321, 63-31322, 63-32117, 63-32118, 63-32119, 63-32617, and 63-32618 will be brought into this transfer approval as associated rights. The combined limit condition will be reduced by 0.16cfs and right 63-31744 will be removed from the condition to account for processing the P/D proposed by this transfer. A condition will be added to the rights indicating which rights have the same P/Ds. A data base comment will be added to all these associated rights highlighting the fact that not all the rights in the combined limit condition have the same P/Ds. The comment will reference this memo for further explanation.
- Right 63-32335 will **not** be brought into this transfer approval as an associated right, because the right currently does not have the combined rate limit condition on the water right record. The condition was erroneously removed from the record upon approval of Transfer No. 74755. The transfer changed the P/D, but did not adjust the rate to account for the rate-limited system condition. Since this right is still listed in the combined rate-limit condition on all the other rights a database comment will be placed in the record. The database comment will indicate a rate-limit does exist for the right, despite no condition being stated on the record. It will also reference this transfer memo for further explanation.

Currently, rights 63-7426, 63-7430A, 63-31322, 63-32117, 63-32118, 63-32119, 63-32617, and 63-32618 have the same P/Ds as the right proposed for transfer. These rights along with 63-7430D, 63-31321, and 63-32335 are rate-limited as discussed above. The total diversion rate for these rights will be reduced to account for removal of the transfer right (63-31744) from the system. See Enlargement section for more details. The applicant proposes construction of a new irrigation well which will not be used by any other rights. Drilling permit fee upgrade is not applicable considering the proposed P/D has not been constructed yet. Condition 046 will be placed on the right. There are no active overlapping rights for the P/U of 63-31744.

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.