

MEMORANDUM

TO: Transfer No. 77093 File

FROM: Steve Lester

DATE: March 17, 2011

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a well to 4 rights for a dairy near Kuna. Only the PODs are being changed to list 3 existing wells and 1 proposed well for all 4 rights. Typically a common POU is proposed in similar situations, although that is not necessarily required.

The application is expedited to address well problems preventing a continued and reliable water supply for the operation.

Application 63-33486 was filed simultaneously for expected growth at the dairy. The same combined diversion system is proposed in that application, which will be processed later.

Contact person for the applicant is consultant Steve Hannula, ERO Resources Corp.

Summary of Information Submitted

Authority to File: Steve Boschma is the applicant. Two rights are in his name. One right is in the name of Steve and Deborah Boschma, and the final right is listed for him and Lone Pine Farms LLC. That entity was replaced by Lone Pine Farms Canyon County LLC. Steve Boschma is the registered agent for the business entity under current registration W56978.

Ideally the application would be in the names shown on the rights. Alternately, it would be ideal if the transfer updated ownership of the rights in the current business name, although that is not required for processing the application.

Steve Boschma has authority to file the application without completing ownership changes.

Water Right Validity: Three of the rights are valid based on 2009 decrees. The other right, 63-20469, was decreed in 2000. That right is an “exempted domestic/stock” right representing the first building block of the dairy water rights. Validity of such rights is hard to confirm since flow data etc. are usually not available, which is the case here.

The consultant provided additional information on 3/16/2011. The HP Equation information confirms the existing well pumps are capable of producing the entire flow for the combined rights (0.35 cfs, the sum of individual rights, not rate-limited otherwise). The domestic use for the latter right is presumed to be valid based on the existing dwellings by the well site identified in SWSW (see Application Attachment B). The stockwater use for 63-20469 is presumed to be valid based on the volume analysis demonstrating the full stock and commercial needs of the dairy have been met.

Meeting those needs required the following:

- Stock & commercial volume needed 70.7 afa
- Volume from Transfer 70232 58.7 afa
- Volume limit 63-20469 @ 13,000 gpd 14.6 afa
- Existing wells produced 58.7 + 14.6 73.3 afa.

Subtracting the undefined but implied domestic volume in 2 of the rights leaves enough volume for stock and commercial uses. This is a reasonable explanation confirming validity of 63-20469.

Injury to Other Water Rights: Injury will not occur by diverting the same amount of water from 4 wells instead of 3 wells.

Enlargement of Use: Use will not be enlarged.

Local Public Interest: Maintaining a viable dairy serves the 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

All the rights were migrated in the database.

It appears the new well will be drilled about in the center of the dairy site, somewhat removed from other property. Legal notices and comment letters are not needed to add a well in the ¼ ¼ already having 2 of the 3 existing wells.

The rights currently identify wells in 10-acre tracts. The application map suggests those tracts are not correct. Well locations for 40-acre tracts are acceptable under these circumstances.

Conditions of Approval

Condition T17 (now inactive) in Transfer 70232 for 63-31584 required an acceptable measurement method for 2 existing wells in SESW. Those wells are also shared by 63-4498 and 63-9103D, which were not part of that transfer. Conditions T07 and T08 from that transfer put that approval at risk since those wells do not have measuring devices and apparently cannot be “measured” with power consumption records (verbal discussion with consultant). However, the 3 rights sharing those PODs are valid per decrees post-dating approval of that transfer. Also, the HP Equation is helpful in this situation. Lack of an acceptable measurement method for 2 of 3 existing wells is not problematic here.

Transfer 70232 added WB4 (now inactive) to 1 right, linking it to 2 other rights not transferred then. That condition identified the combined rate for 3 of the 4 rights in this new transfer (0.18 cfs). However, that limit is just the sum of the individual rates. That condition also defined the combined volume for 3 of the 4 rights in this new transfer (58.7 afa). This implied 63-4498 was recognized as 13.6 af (58.7 minus volume from other 2 rights in WB4). Absent a WB4 limit, the maximum volume for 63-4498 at 13,000 gpd is 14.6 af, slightly over the 13.6 af already noted.

Transfer 70232 was approved in 2003. Conditions T17 and WB4 became inactive in 2005. The rights were decreed in 2009, lacking any combined volume limits. Furthermore, right 63-4498 was decreed in 2009 without a volume. There is no added value in retaining WB4 in 63-31584 to simply limit the combined volume for 3 of 4 rights in this new transfer to 1 more af than possible for those 3 rights. This does not invalidate use of the 58.7 af limit in the above analysis for validity of 63-20469.

Outdated conditions of approval should be deleted in this new transfer (examples: X02 and F02). Standard conditions should be added as needed (046, F06).

Condition 01M is useful here, despite small flow rates for all 4 rights being transferred. Application 63-33486 proposes 0.45 cfs, requiring 01M. It is better to use 01M for all existing and proposed rights/permits at the dairy rather than for fewer rights/permits. Also, 01M provides a useful replacement to T17 from the previous transfer.

Transfer application 77093 should be approved.