

MEMORANDUM

TO: Transfer No. 75265 File

FROM: Angela Grimm

DATE: December 4, 2009

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to establish an integrated system and permissible place of use for rights 61-328, 61-10578, and 61-11807 for irrigation of 200.5 acres within a 500 acre permissible place of use (PPU).

The place of use is generally located northeast of N. Hammett Hill Rd and Bennett Rd intersection between Rye Grass Rd and Walker Rd approximately six miles north of the Snake River, six miles northeast of Hammett, and seven miles northwest of Glenns Ferry.

Contact person for the applicant is Lori Graves, SPF Water Engineering.

Summary of Information Submitted

Authority to File: The rights are in the transfer applicant's name. The applicant is the owner of the proposed PPU property as well, per Elmore County tax lot records in ArcMap. The applicant has authority to change the rights.

Water Right Validity: The rights were decreed in the SRBA in 2002. 2004 and 2006 aerial photography indicates portions of the current places of use may not be irrigated. Rights in this area were deemed valid in the SRBA despite Department petitions for partial forfeiture due to limitations on source sustainability throughout the irrigation season. The SRBA decision against forfeiture appears to be in part due to several affidavits received stating irrigation of the property occurred when water was available. Aerial photography indicates irrigation is occurring outside the currently authorized rights' place of use (PU), but within the proposed PPU. Court precedent has been set that rights are not subject to forfeiture if beneficially used in a manner contrary to the constraints of record on the rights so long as the unauthorized use of the right is not injuring existing users. The rights must undergo a period of five or more consecutive years of non-use for forfeiture to be found based on preceding court decisions. Diversion records for the Bennett and Cold Springs Creek Water District (61C) are limited, but aerial photography confirms irrigation of lands both inside the current PU and within the proposed PPU for these rights is occurring. This transfer application seeks Department approval authorizing current irrigation practices for the rights.

Injury to Other Water Rights: Injury should not occur under this proposal. There will be no change in the amount of acres irrigated, points of diversion, or water used.

Enlargement of Use: The applicant does not propose to enlarge the use. The applicant proposes to establish a permissible place of use for the rights to allow for irrigation of 200.5 acres within the 500 acre PPU proposed. The diversion rate, annual diversion volume, and number of acres authorized for irrigation will not increase. The rights will remain primary irrigation rights.

Local Public Interest: Authorizing the applicant to establish an integrated irrigation system within a PPU 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. Additionally, allowing the applicant to change the water rights to authorize current irrigation practices 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

Data entry for the transfer will affect the water right records for rights 61-328, 61-10578, and 61-11807. The rights have been partially decreed in the SRBA and the records have been migrated in the database prior to transfer data entry.

Rights 61-328 and 61-10578 currently have common PDs and PU. The rights are limited to irrigation of 183.5 acres per season when combined. These rights do not have conditions limiting the number of acres each right is limited to, but rather only a combined condition limitation within the same 183.5 acre PU. One of the two PDs of right 61-11870 is also a PD for right 61-10659, which is a stockwater and domestic right not affected by the proposed creation of a PPU for irrigation purposes. There are no other overlapping rights for the PDs, existing PUs, or proposed PPU. No other water rights need to be involved in the processing of this transfer.

Rights 61-328, 61-10578, and 61-11807 currently have one PD described in the legal description portion of the rights with a remark/condition stating there are two PDs in the NW SE Sec 32 T04S R09E for rights 61-328 and 61-10578 and two PDs in the NE NW SE Sec 5 T05S R09E for right 61-11807. Per current Department data entry standards, each diversion is recognized as a separate PD. The legal description is listed on each of the rights accordingly on the drafted transfer approval.

The rights proposed for transfer are within Water District 61C for Bennett and Cold Springs Creek. A comment letter will be sent to the Watermaster at the time of advertising and any comments received will be considered during processing of the application.

An amended application clarifying the intended changes to the PDs for the rights and a map verifying the PLS legal description of the proposed PPU was requested via my letter of October 27, 2009. This letter also requested the applicant submit additional information detailing how the diversion system is to be integrated. On December 1, 2009 an amended page 1 of the application, and amended map, and information confirming the PDs of all three rights will be integrated in a manner that water from a single PD will be able to reach the entire PPU proposed was submitted. The cover letter dated November 27, 2009 submitted with the amended application stated the applicant will divert water from the lower spring and unnamed stream diversions into a small impoundment from which water will be pumped into an integrated pressurized irrigation system for irrigation of authorized acres within the proposed PPU.

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.