

MEMORANDUM

TO: Transfer No. 75285 File and related Application for Permit File 63-33136

FROM: Vicky Music

DATE: September 15, 2010

RE: Evaluation of Sufficiency of Information Submitted

The applicant, Boise Valley Irrigation District, filed this application to mitigate for consumptive use (evaporative losses) of 4 existing ponds in the Woods No. 3 Subdivision. The underlying water right that will change pursuant to this transfer is 63-31832. The companion application for permit no. 63-33136, filed by the Woods No. 3 Owners Association is for 4 aesthetic ponds in the Wood No. 3 Subdivision. The source of water for the ponds is shallow ground water tributary to the Boise River, which is approximately 0.5 miles south of the subdivision.

The transfer proposes to change the nature of use of water right 63-31832 for 5 acres of irrigation (16.1 af and 0.10 cfs) to mitigate for the evaporative losses from the ponds associated with application for permit 63-33136. This is not what IDWR considers a “1:1 pond swap” but is based on historical consumptive use.

The Wood No. 3 Subdivision is in northwest Boise, less than 0.25 miles south of State St. and adjacent to Bogart Lane on the west. The subdivision is located within the Boise Valley Irrigation District service area. The POD for 63-31832 is the diversion shared with Farmers Union Ditch Co. LTD located on the Boise River in Garden City. It is referred to as the BVIDC Headgate # 21. From the POD the water will be delivered to the ponds through the Elmore Drain which traverses the subdivision. The transfer does not propose a change in the Boise Valley Irrigation District POD and service area.

Contact person for the applicant is attorney, Charles L. Honsinger, of the Ringert Law firm.

Deviations from Transfer Policy Standards

This transfer application was submitted in 2008 so the application form is the old form. Attachment A, the IDWR printout of the water right no 63-31832 is the SRBA recommendation because the water right was not decreed when the application was submitted. Since the application was filed, a partial decree has been issued by the SRBA Court on 2/19/2009, and 2 transfers (73768 and 73769) have been processed. Hence, Part 2 of the transfer application is outdated.

Similarly, Part1B(1) – the description of the right after the requested changed and the Remarks and calculations regarding the quantity, volume and acres provided in Part 1B(6) are incorrect. These inaccuracies were not the fault of the applicant but are due to the SRBA activity and the processing of the 2 transfers (73768 and 73769), all subsequent to this transfer filing.

The correct information regarding the right 63-31832 as decreed and the right as it will appear after this transfer is processed is available in IDWR records.

The legal description for the location of the ponds is provided on the companion application for permit but was not listed correctly on the transfer application in Part 1(B)(5), the place of use. Instead of the QQ description, the application states here, "Use within the boundary of Boise Valley Irrigation Ditch Co. " This deviation is very minor and we know where the ponds are per the application for permit and the attached map so amending the application is not necessary. This review memo will provide current information and these deviations should not delay processing this transfer application.

Summary of Information Submitted

Authority to File:

The transfer applicant, the Boise Valley Irrigation Ditch Co., is the IDWR owner of record and as such, has the authority to file this transfer.

Water Right Validity:

Right presumed to be valid because the SRBA Court issued the partial decree on 2/19/2009, within the past five year period.

Injury to Other Water Rights:

No other water rights will be injured if this transfer is approved because the transfer will only change a quantity of water already diverted for irrigation to the ponds to mitigate for evaporative loss.

Enlargement of Use:

No enlargement of use of right no. 63-31832 is proposed by this transfer nor is enlargement expected. In fact, the transfer will retire a greater volume of water that is expected to evaporate from the ponds, so there will likely be a small water savings.

A season of use change is proposed for the aesthetic storage use from the irrigation season to year round. This is consistent with other "pond package" application for permit/transfer for mitigation duos that IDWR has processed and approved in the past. A de minimus quantity of water is expected to evaporate from the ponds during the non-irrigation season and the diversion to storage will be limited to the standard IDWR irrigation season so no enlargement is expected if the year round season of use is approved.

Local Public Interest:

There are no apparent local public interest issues.

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.

Additional Information/Analysis

There is no additional information required of either the transfer applicant, Boise Valley Irrigation Ditch Co., or the permit applicant, Woods No. 3 Owners Association. This application will not be parallel processed with a SO reviewer and IDWR analysis by other IDWR staff is not necessary.

The source of 63-31832 is the Boise River, therefore, IDWR will solicit comments from the Boise River Watermaster.

Discussion

These two applications, the application for permit 63-33136 and the application for transfer 75282 are companion applications and will be processed together. The applications are associated because application 63-33136 is for aesthetic storage for 4 existing ponds in Basin 63, upstream from Star. There is a consumptive use element, the evaporation from the surface area of the ponds and this consumptive use must be mitigated. Mitigation will be provided by the BVIDC retiring 5 acres of irrigation and changing the uses and pro rata diversion rate and volume associated with this irrigation to diversion to storage and aesthetic storage. The acres irrigated within the Boise Valley ditch company service area will be decreased 5 acres to 2799.7 acres.

There are two methods by which the uses and pro rata quantity and volume are calculated. The first IDWR refers to as a “1:1 swap” which means 1 acre of irrigation is swapped for 1 acre of pond surface area to be mitigation. The second method is to calculate the historic irrigation consumptive use by determining the crop historically grown, obtaining the consumptive use of the crop from the **ET_{Idaho} 2009: Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho**, www.kimberly.uidaho.edu/ETIdaho website, converting the consumptive use in mm to feet and multiplying by the number of acres being transferred to determine the actual historic consumptive use that can be transferred.

The application must state which method the applicant used in determining the proposed annual volume. If the consumptive use calculation was used, the applicant must provide the calculation, the weather station data used, crop historically grown on the acres to be retired. During the transfer review, IDWR confirms the calculation.

In the transfer application 75285, the consultant includes both methods. Because the historical use calculation is more accurate, it is preferred and it will be used in evaluating the transfer. In the consumptive use calculation, the applicant stated turf grass was most likely grown on the acres to be retired and used the Boise WSFO Airport station data. The consultant states that the calculation results in 3.22 af/ac [5 acres] = 16.1 af/year that can be transferred and used to mitigate the evaporative loss of the 4 ponds.

Based on my review, the website provided 989 mm as the annual mean of turf grass consumptive use. [989 mm] [.0032808 feet] = 3.25 acre-feet [5 acres to be retired] = 16.25 af/ year historical consumptive use of the turf grass on the 5 acres. I believe the discrepancy between the consultant’s result of 16.1 afy and my result of 16.25 afy is reasonably due to the website data being updated in 2009 (which is stated on the website). The application was submitted December 9, 2008. IDWR will use the 16.25 afy volume.

The consultant further states that per the website, the consumptive use for pond in the area is 2.15 af/acres [4.55 acres] = 9.66 af/year of evaporation from the ponds. Again, the consultant does not consistently use either the “1:1 pond swap” or the historical consumptive use calculation. [5 acres] [2.15] = 10.75 af evaporative loss from the ponds so either method illustrates that the volume historically consumed by the 5 acres of irrigation will certainly mitigate the pond losses.

Water right no. 63-31832 is a Boise River right with a priority date of 6/01/1865. Boise River rights about 1880 or older are always deliverable. The priority date and the conditions of the right and this transfer will ensure the right is nearly always deliverable and a good candidate for use as mitigation.

Here are the changes that will be made to the elements of 63-31832 via this transfer:

Aesthetic storage	27.5 af	+	16.3 af	=	43.8 af
Irrigation	49.27 cfs	-	0.10 cfs	=	49.17 cfs
Irrigation volume	10,238.5 af	-	16.3 af	=	10,222.3 af
Diversion to storage	0.61 cfs	+	0.10 cfs	=	0.71 cfs
Irrigated acres	2804.7	-	5 acres	=	2799.7 acres

SRBA status was provided in the *Deviations from Transfer Policy Standards* section of this memo.

The POD overlaps for 63-31832 are 63-120G, 63-123C, 63-123E, 63-123F, 63-124Q, 63-125J, 63-126F, 63-164D, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-18700, 63-21729 AND 63-31937. The POD and POU of the other ditch company rights will not be affected by this transfer.

However, there are other ditch company rights that list the number of acres irrigated within the service area. these rights, referred to by IDWR as “associated rights” must be included in the transfer process because the irrigated acres authorized within the service will change as described above. The associated rights are 63-147B, 63-147D, 63-2360, 63-31198 and 63-31833. There are no other overlaps affected by this transfer.

There are no Water Bank issues.

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 because new wells are not proposed.