

REVISED - M E M O R A N D U M

Date: October 27, 2010
To: Transfer 74429 File
From: Jeanie Robertson
Re: Evaluation of Sufficiency of Information Submitted

Transfer seeks to create a PPU of 4,382.7 acres by combining 25 ground water rights, diverted from 15 existing wells, in order to provide greater flexibility in their irrigation practices. {During my overlap analysis and review, I noticed that there were some overlapping acres between rights 36-2501 and 36-8213 that had not been conditioned before. I added another X35 condition to these two rights with a total of 137 acres, 2.74 cfs (0.02 cfs/ac) and 548 AF (4 AF/ac).} Then another combined diversion limit of 8.77 cfs was found between rights 36-2501, 36-8213, 36-2220, 36-2061, and 36-16403 so that was also added in Conditions. A final combined limit remark was added to all the rights with a total of 70.04 cfs, 17,510.8 AF, and the irrigation of 4,382.7 acres. (Right 36-2315B was split in the transfer into 36-16795 and 36-16796. 36-16796 will remain with WG Farms in the PPU but upon approval of this transfer 36-16795 for 30.9 acres will then be transferred to the Idaho Youth Ranch via transfer 76189.) They have applied for enrollment in the CREP Program for portions of the lands irrigated by the water rights and feel that creating the PPU is the most efficient way to allow for the enrollment of more junior water rights in CREP and allow for the continued use of senior rights. The approximate location of the place of use is between 12 - 15 miles north and 3 - 3.5 miles east of Rupert. As no new wells will be drilled, the wells are all in adjacent model cells, and there will be no apparent hydrologic impact, I recommend no advertising and approval in the region of this transfer.

Authority to File:

A 3rd AMENDED application was received on September 1st, 2010 and then a FINAL AMENDED PART 1 was received on October 25, 2010 which was intended to supersede the previous applications. This final amended application agreed to a PPU of 4,382.7 acres and removed rights 36-16549 and 36-16809 from the application. These had been added in Amended Version 2 to replace the 30.9 acres of water (36-16795 split from 36-2315B) stipulated to in an agreement with the Idaho Youth Ranch. The final shape file and total acres in the PPU did not include enough acres for the total of all the rights. It was determined that the two rights being brought in essentially did not fit and consequently weren't needed. The shape and total PPU were still 4.4 acres smaller than the total of the rights so 4.4 acres were removed from enlargement right 36-15356A and a condition was added stating that approval of the transfer redefined all the elements of that right and the full extent of the right was now 12.1 acres and 48.4 AF, 4.4 acres and 17.6 AF smaller.

The 2nd AMENDED application was finally filed on November 20, 2009 by Zach Latham of Brockway Engineering on behalf of the applicants, WG Farms, LLC. A Limited Power of Attorney for Zach, signed by Duane Grant representing WG Farms, was also provided. (According to the Amendment of Lease Agreement with the Idaho Youth Ranch (IYR), Grant 4-D Farms, an Idaho General Partnership and Mountain View Lands, an Idaho LLP, are collectively doing business as WG Farms, LLC, an Idaho Limited Liability Company. According to the Idaho Secretary of State web-site, Wayne Grant is authorized to sign on behalf of Grant 4-D Farms.) The applicant indicated that no ownership changes were to take place in the transfer process. Some of the land in the PPU is actually owned by the IYR; E ½ of Sec. 13 and NE ¼ of Sec. 24, but the Lease Agreement should take care of that. Among other stipulations, the agreement states that the applicants are to provide 30.9 acres of water from right 36-2315B to the IYR for irrigation of their property. Portions of two other rights were added to the amended application in order to make up for the water leased to the IYR. (There is supposed to be another application for transfer forthcoming which will make a PPU on the IYR land.) There is no lien holder on the property according to the application.

Water Right Validity:

Partial decrees were issued for eighteen of the rights on 8/27/2001. 36-2550 was decreed on 12/05/2001; 36-15356A was decreed on 10/31/2005; and 36-16403 was more recently decreed on 4/18/2008. 36-7297 was licensed on 2/23/1990; 36-8213 was licensed on 4/9/1994; 36-8212 was licensed on 7/29/1994; and 36-8257, 36-8258, and 36-8259 were licensed on 3/3/1998. Review of recent aerial photography in the area shows current irrigation of the land so forfeiture does not appear to be an issue.

· Injury to Other Water Rights:

None anticipated. No new wells will be drilled. The existing 15 wells do fall within 9 different cells of the model but they are all adjoining. An ESPA Ground Water Model Transfer Spreadsheet Analysis for the 14.8-acre portion of water right 36-16736 (a split of 36-7275) being transferred in, to offset the portion of 36-2315B going to the IYR, showed no mitigation was required. A similar analysis was also performed on the 16.1-acre portion of 36-7267, and again showed no mitigation was required. (The spreadsheet was developed by Greg Sullivan of Brockway Engineering supposedly with the approval of Mat Weaver of the State Office.) I asked Mat to review this analysis and although he didn't think they had provided sufficient information in their spreadsheet analysis to us, he ran the model himself and came up with the conclusion that no mitigation was needed. The area is within Water District 130 so water master comments will be solicited and control and supervision will be implemented.

· Enlargement of Use:

None anticipated as long as the acre limits within the PPU are adhered to.

· Local Public Interest:

No negative impacts anticipated.

· Beneficial Use/Conservation of Water Resources:

Proposed use is recognized as a beneficial use of water. The applicants wish to have greater flexibility for irrigation purposes within their property boundaries and use the CREP program more efficiently.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

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WG Farms LLC		flow	combined	volume	combined	acres	combined				
36	2134		4.41								
36	7186		4.67	4.58		1160		295			
36	2135		2.44					142			
36	7187		0.4	2.84		568		142			
36	2136		2.68	2.68	640	640		160			
36	2142 A		2.25	560				140			
36	15380 enlgmt		0.26	72		632		18			
36			2.51	2.26				158			
36	2315 A		4.38	1016				254			
36	16796 36-2315B		6.46	1476.4				369.1			
36	2315 C		0.92	248				62			
36	7399		4.83	1280				320			
36			5.75								
36	2315 D		2.83	880				220			
36	2315 E		3.44	1248				312			
36				6148.4	6348.4			1537.1			
36	8257		4.42	932				233			
36	8258		8.7	1740				435			
36	8259		5.2	1040				260			
36						9860.4		2465.1	40.55		
36	2415 A		3.77	1074				268.5			
36	15356 A enlgmt		0.22	66	48.4			16.5	12.1		Reduced by 4.4 acres and 17.6 afa
36				3.77		1122.4		285			
36	2501		0.8	260				65			
36	8213		2.04	544		544		136			
36											
36	2220		3.04	608		608		152			
36	2061		1.8	1280				320			
36	16403		3.2	1280				320			
36				8.77		1280		320			
36								2432	608		
36	2550		4.01	868				217			
36	8212		1.16			1096		58			
36				4.6				275			
36	16549 36-7267		0.16	64.4		64.4		16.1			Remove from transfer
36	16809 36-16736		0.3	59.2		59.2		14.8			
36											
36				70.04		17510.8		4382.7			
Shape of irrigated acres update to 4382.7											
Portion of enlargement forfeited.											
Reduce 36-15356A to 12.1 acres and 48.4 afa											
Based on 10/19/10 discussion with Zack											
Limits				70.04		17510.8					4382.7