

MEMORANDUM

TO: Transfer No. 76412 File (former transfer nos. 73764, 73765 and 75556)

FROM: Vicky Music

DATE: April 27, 2010

RE: Evaluation of Sufficiency of Information Submitted

Transfer no. 76412 consolidates 3 transfers filed separately for a interconnected system for residential development planned around Blackhawk Lake, formerly known as Hait Reservoir, and Banana Lake, formerly known as Lower Hait Reservoir, in Valley County. The water rights being transferred are 65-2946C, 65-7052E, 65-7535 and 65-12136B and the source of the rights is Duffner Creek.

Former transfer no. 73764 was filed 4/5/07 and proposes to change the irrigation storage components of rights 65-2946C and 65-7052E, in Blackhawk Lake, to aesthetic storage. The applicant plans to retain the irrigation component of right 65-7052E derived from the live flow of Duffner Creek so right no. 63-7052E is split into 65-23422 (irrigation) and 65-23423 (storage).

Former transfer no. 73765 was filed 4/5/07. The transfer proposes to change the 20 af irrigation storage component of water right no. 65-7535 to aesthetic storage for a subdivision planned around Banana Lake, formerly known as Lower Hiatt Reservoir. The source of this right is Duffner Creek and the irrigation from storage component of the water right will be abandoned.

Former transfer no. 75556 was filed in 4/3/09. The transfer proposes to change the irrigation storage component of 63-12136B in Blackhawk Lake to aesthetic storage and abandon the irrigation from storage component. The system is the same as that of transfer 73764, but the SRBA Partial Decree for this underlying right was issued in January 2009, so a transfer could not be filed until the SRBA subcase was decreed.

The total quantity proposed to be transferred is 1261.4 af. The IDWR dam inventory file states that the capacity of the 2 reservoirs is 1630 af.

Processing the 3 transfers in a single administrative process is much more efficient and saves the Department a lot of time, so IDWR contacted the consultant and asked if it would be acceptable to the applicant if we retired the 3 original transfer numbers, assigned a new number and processed them as one. No new application was required; the consolidation would take place internally. The applicant was amenable.

The site is 5 miles southwest of McCall, Idaho.

The contact person for the applicant is consultant, Terry Scanlon, SPF Water Engineering, LLC.

Deviations from Transfer Policy Standards

The application is the old form because the application was filed prior to the adoption of the new form.

Deeds provided with the original applications establish that applicant conveyed Blackhawk and Banana Lakes to the Blackhawk Lake Property Owners Association (BLPOA) and retained the surrounding real property. There is a statement in the application cover letter, dated April 5, 2007, page 1, paragraph 1, that the applicant and the Blackhawk Lake Property Owners Association (BLPOA) agreed that the applicant would file the transfers to change the nature of use for 65-7535 and for 65-2946C and 65-7052E. After the transfers are approved, the letter continues, whatever changes of ownership are necessary will be filed for the lakes.

There was a discrepancy in the POUs for the 2 Blackhawk Lakes transfers, 73764 and 75556. The consultant amended 73764 and added the 2 QQ to application 73764 so that it was consistent with 75556 and submitted a corrected map.

Although it is confusing to piece together the entire situation, the application is complete and there are no deviations to delay processing of this transfer.

Summary of Information Submitted

Authority to File:

The applicant is the IDWR owner of record and therefore has the authority to file.

Water Right Validity:

SRBA Partial Decrees for water right nos. 65-2946C, 65-7052E and 65-7535 were issued in 2000. Aerial photographs from 2004 may indicate irrigation, but the vegetation appears native. There does not appear to be cultivation. The use could be irrigation of pasture. The aeriels from 2006 and 2009 are likewise ambiguous. However, due the similarities in all of the photos and the green areas in the 2004, I believe the area was irrigated for pasture and the rights are valid. IDWR Dam Safety records verify that the storage facilities have been well maintained which further supports the validity of the rights.

The SRBA Partial Decree for 65-12136B was issued in January 2009, so the forfeiture clock has been running for 2 1/2 years. Because the transfer was filed within 5 years of the decree being issued, the right is considered valid.

Injury to Other Water Rights:

There are other Duffner Creek rights in the vicinity of this right. Most are derived from the same parent rights as these being transferred so the priority dates are the same. There is a Duffner Creek right considerably downstream and very close to where Duffner flows into the Payette R., however it is junior to these rights and it a combination of Duffner Creek rights [progeny of the same parents of the subject rights] and springs sources. Injury is not expected.

Enlargement of Use:

There is no enlargement proposed or expected from this change in nature of use from irrigation storage to aesthetic storage because storage is a supplemental use. There is no increase in the storage volume or consumptive use. In fact, the applicant is giving up some irrigation.

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

No additional information is needed from the applicant. The region will consult the state office because the transfer is being parallel processed. IDWR analysis is not needed from other programs.

IDWR will solicit comments from the Payette River watermaster.

Discussion

The SRBA status of all of the rights was summarized in the *Summary of Information Submitted/ Water Right Validity* section of this memo.

The only Blackhawk Lake POU overlap is 65-7653E with a Payette River source. Blackhawk Lake POD overlaps are 65-2946B & D and 65-7052B, D & F. These rights are all for minor storage located on different property and not owned by the applicant.

The only Banana Lake overlap is a POD overlap, 65-12136A, for minor storage located on different property and not owned by the applicant.

The overlaps are considered associated rights. The elements of the associated rights will not change, but the rights will be included in the transfer so that the conditions can be updated.

Mitigation is not required or proposed in this transfer. There is not a water bank issue.

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 is n/a because a new well is not proposed.