

MEMORANDUM

TO: Application for Permit No. 65-23369 & Transfer No. 76177 Files

FROM: Angie Grimm

DATE: August 30, 2010

RE: Evaluation of Sufficiency of Information Submitted

Application for Permit 65-23369 was filed by Gold Fork River Ranch LLC for the storage volume of two aesthetic ponds within Gold Fork River Ranch Subdivision. The proposed source for the lined ponds is Gold Fork River water tributary to the North Fork Payette River via Cascade Reservoir south of Donnelly. Gold Fork Irrigating Company LTD (Ditch Co.) filed accompanying Transfer No. 76177 to change water right 65-2256 to mitigate for the consumptive use associated with the pond. The transfer proposes a nature of use change for 6 acres of irrigation (0.12 cfs and/or 11.0 af) allowing for a "1:1 pond swap". This transfer also proposes to amend the large place of use/service area for all the Ditch Co.'s water rights; 65-2256, 65-10943, and 65-22476.

Gold Fork River Ranch Subdivision is located approximately ¼ mile east of Hwy 55 off Plant Rd approximately 3.5 miles south Donnelly. The ponds are approximately ¼ to ½ mile east of Hwy 55 inside the subdivision. The Ditch Co.'s current service area is generally located south/southeast along the Gold Fork River where it empties into the Cascade Reservoir extending approximately 2 miles to the northeast and southwest of Hwy 55 where it intersects Plant Rd approximately 3.5 miles southeast of Donnelly. The P/D for right 65-2256 is the diversion site shared with Center Irrigation Co located on the Gold Fork River approximately 2.5 miles east/southeast of the Gold Fork River Ranch Subdivision. The P/D for the Ditch Co. will not change as a result of this transfer.

Summary of Information Submitted for Transfer 76177

Authority to File: The applicant is the current owner on record. The applicant has authority to change its own rights. The applicant is authorized to do business in the State of Idaho as they are registered with Idaho Secretary of State under Organizational ID C1770.

Water Right Validity: Rights are presumed to be valid, because the rights were decreed for delivery by an irrigation ditch company that continues to deliver water to its shareholders. 2009 aerial photography indicates irrigation is still occurring within the service area of the rights.

Injury to Other Water Rights: No injury should occur as there will be no change to the current amount of water being diverted or the method used to divert the water to the affected land. Water historically diverted for irrigation under right 65-2256 will be diverted from the river to the ponds to mitigate for evaporative losses. There will be no reduction in quantity of water available for other water rights. The water right holder will not be put to any unreasonable effort or expense to divert the water since diversion practices will remain unchanged except the water previously applied to a crop will now be placed in ponds at the same location.

Enlargement of Use: The applicant does not propose to enlarge the use. There will be no increase in the diversion rate, diversion volume, or extent of beneficial use as a result of the transfer. The number of acres authorized for irrigation within the Ditch Co.'s boundary will be reduced by 6.0 acres to allow for the nature of use changes proposed for mitigation of permit application 65-23369. Historically, the 8.4 acres surface area of the ponds was irrigated alfalfa per applicant remarks. Alfalfa is considered a highly consumptive crop. ET data submitted by the applicant (U of I-Kimberly data set 2004) indicates 11 AF is required to mitigate evaporative losses associated with the 8.4 acre surface area of the ponds. The 2004 data is comparable to the current 2010 data set now available, only 1 mm difference in mean annual precipitation deficit values. This data also indicates retirement of 6.0 acres previously irrigated will provide for the 11 AF of evaporative losses. Therefore, the applicant proposes a nature of use change for the water associated with 6.0 acres of irrigation (0.12 cfs) to aesthetic use. The period of use proposed for the aesthetic nature of use change is during the irrigation season only, rather than the year round. Considering a de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season, it is reasonable to assume no consumptive use from the ponds will occur and therefore mitigation water is not required during the non-irrigation season. The transfer does not propose irrigation of additional acres, therefore no enlargement shall occur.

Local Public Interest: Transfer proposes mitigation for aesthetic ponds. Changing the nature of use for 6.0 acres of irrigation is minimal and will not significantly impact the local agricultural base. Reduction in irrigation to mitigate existing ponds 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.

Summary of Information Submitted for Application 65-23369

The application proposes diversion to storage of 0.12 cfs and aesthetic storage of 67.2 AF for two lined ponds having a total surface area of 8.4 acres. The application indicates the

ponds will be filled with Gold Fork River water, which is tributary to the North Fork of the Payette River. This use is subject to Watermaster control due to the use of surface water tributary to the Payette River system. As such, a request for comments on this proposal will be sent to the Water District 65 Watermaster.

The application proposes aesthetic storage for a year round period of use. The transfer application proposes mitigation for this use through diversion of Gold Fork River water during the irrigation season. A de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season.

Discussion

Transfer application 76177 proposes to change the nature of use for a 6.0 acre portion of right 65-2256 irrigation use for mitigation of the consumptive use associated with two lined ponds proposed in Application for Permit 65-23369. Shares of the Ditch Co. water will be placed in the lined pond during the irrigation season to mitigate the year round consumptive use of the pond. The transfer also proposes to correct the large POU for the Ditch Co. rights 65-2256, 65-10943, and 65-22476. The transfer will affect the water right records for these rights, which are the most current records. The partial decrees were issued and the results were migrated prior to transfer processing and data entry.

The applicant filed another application, 65-23377, for storage of shallow ground water tributary to Gold Fork River in 5 excavated ponds. The application includes a mitigation plan stating 6 shares of right 65-2256 will remain undiverted in the Gold Fork River to mitigate for the evaporative losses associated with the 5 ponds. Transfer application 76177 and the mitigation plan for permit application 65-23377 propose a nature of use change of right 65-2256 from irrigation use to diversion to & aesthetic storage and mitigation respectively. To avoid confusion, the drafted transfer approval incorporates the mitigation plan and outlines all the proposed changes to the Ditch Co. rights.

The P/D for the Ditch Co. rights 65-2256, 65-10943, and 65-22476 is also the P/D for Center Irrigation District rights 65-2380 and 65-10628. The transfer application does not propose any changes to the P/D so these overlapping rights will not be affected by the transfer. The Ditch Co. rights 65-2256 and 65-10943 have the Ditch Co.'s large P/U, which will be modified by this transfer. The Ditch Co. right 65-22476 for stockwater use was decreed with a P/U, but has a remark stating use of this right is within the boundary of the irrigation company. Should this transfer be approved, right 65-22476 will be included with the other Ditch Co. rights large POU proposed. The number of acres authorized for irrigation within the Ditch Co.'s service area will be reduced by 12 acres total (6 acres for the transfer nature of use change permit application 65-23369 and 6 acres for the mitigation plan nature of use change permit application 65-23377) from 2,945 to 2,933 acres. The Large POU for these rights was decreed stating there are 2,775 acres within the POU, but conditioned to allow 2,945 acres of irrigation with the boundary. Adjudication back file information indicates the recommendations for these

rights were amended a few times and 2,945 is the current number of acres authorized for irrigation within the Ditch Co.'s service area. Therefore, if these transfer's are approved, 2,933 acres will be authorized for irrigation after processing. There are no other overlapping rights affected by this transfer.

The applicant applied for 0.12 cfs Diversion to Storage use on the permit application 65-22369. The nature of use change proposed to mitigate 65-22369 includes changing irrigation use to a Diversion to Storage rate of 0.12 cfs and an Aesthetic Storage volume of 11 ac-ft. If the applications are approved, the Diversion to Storage use under the two rights 65-2256 and 65-22369 shall be limited to a combined rate of 0.12 cfs.

Right 65-2256 is a Gold Fork River right with a priority date of 04/15/1907. The priority date ensures this right is almost always deliverable and thus a good candidate for use as mitigation.

The transfer application proposes water previously diverted for irrigation of 6 acres be diverted to mitigate 11 acre ft of evaporative losses associated with the proposed ponds of permit application 65-23369. The nature of use terminology used by the Department for mitigation of ponds has evolved from a single rate of flow term (Aesthetic), as the transfer application proposed, to Diversion to Storage and Storage (Aesthetic Storage) volume use terms for these types of applications. The applicant was not required to amend the transfer application to address this issue, because the applicant's intention to use the water for mitigation is clear despite the difference in terminology used.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the applications can be approved as reflected by the draft approvals.