

MEMORANDUM

Date: August 16, 2010
To: 63-32614 and 63-33400
From: Michele Edl
Re: consensus memo

On July 26, 2010, application for permit 63-33400 was sent to Western Region office for pre advertisement review. On August 12, 2010, state office and western region office personnel met to resolve issues that were impeding advertisement of the application.

The following topics were discussed and resolved.

- 1) Western Region personnel had found an inconsistency between POU described in application for permit 63-33400 and the POU described in the transfer that it was designed to replace. The transfer describes a 67-acre POU within a 91.7 acre PPU. Permit 63-33400 describes a 67 acre POU. Confirmation from the applicant's representative has been requested.
- 2) The water bearing zone for 63-31515 was described as 1-15 ft. Application for permit 63-33400 is silent about the water bearing zone sought but because both permits involve the same ponds a depth of 1-15 ft could be assumed. Confirmation from the applicant's representative has been requested.
- 3) To describe ponds that are naturally filled by groundwater and contain parts of two or more quarter-quarters (QQ), I have been directed to show a POD in each quarter-quarter. This is based on the thinking that diversion of groundwater can be occurring in each of the QQs that the pond covers.

Western Region personnel requested a simplification of the PODs based on the thinking that although the ponds cross QQ lines, only one POD, typically a point in the center of the pond, is required to define the location. This method describes excavated ponds as if they were wells. By that logic, ponds 2, 3, 6, 10, 11, 12, 14 and 16 would have redundant PODs.

When combined with the POU description and conditions of the right, either method would fully describe the pond/storage. Therefore, I have modified these permits, reducing the number of PODs. Each pond is now represented by a single POD.
- 4) Department guidance on portraying water rights for ponds has evolved in the time since transfer 70024 and permit 63-31515 were inaugurated. Current guidance expects a storage use be listed for the pond capacity and again for the consumptive loss. In this case, aesthetic storage is listed as a use on each permit.
63-31515 provides 49.5 AF for aesthetic storage (the pond volume)
63-33400 provides 1.34 cfs for irrigation and 42 AF for aesthetic storage (the evaporation loss attributable to the ponds = 3.5 consumptive use x 12 acres surface area)
Both rights are necessary in combination to authorize requested storage uses in ponds.
- 5) A mitigation plan is required for these types of appropriations in Basin 63. The applicant is the holder of all of the rights involved, which simplifies the mitigation plan. I did not request a separate document dedicated to describing the mitigation. Depletion analysis was completed by Department personnel when reviewing Application for Transfer 70024 and a copy of that analysis is included in the application for permit 63-33400. The mitigation plan is briefly stated in the narrative (part 12) for Permit 63-33400. Decreed Water Right 63-32614 is offered, up-front, for mitigation of both permits in a 1 to 1 swap.

MEMORANDUM

Date: July 22, 2010
To: Water Right File 63-33400 and 63-31515
From: Michele Edl
Re: Application for permit review

Applicant

The applicant is Rivers End Neighborhood Assn Inc., (ISOS #C145184). They are also the owner-of-record for Amended Application for Transfer 70024 and its companion Application for Permit 63-31515, and for Decreed Water Right 63-32614.

These other water rights and processes are closely associated with this application. Transfer 70024 is not approvable and is conditionally withdrawn pending the joint approval of both applications for permit 63-31515 and 63-33400.

Dave Shaw (ERO Resources Corp) is the representative for applicant.

Source and POD

This application for permit seeks to appropriate groundwater through 17 shallow (10 to 20 feet deep) ponds. The water-bearing zone is approximately 15 ft below ground surface. At inauguration, the ponds were expected to be considered tributary to the Boise River. The last of them have recently been excavated. Some of them are no more than small, water features.

The source of the water will ultimately be (~50 years in the future) the Boise River. However, these ponds cannot meet the criteria for a direct and immediate connection to the river which would allow naming the Boise River as the source.

I created the POD shapes based on maps submitted with Amended Application for Transfer 70024. Several of the ponds cross QQ lines which meant that additional PODs were required to completely describe the groundwater diversions.

Mitigation will be provided through non-use of Right 63-32614 which was decreed on May 28, 2007. Decreed Right 63-32614 is a Boise River right (priority 3/1/1865) with an access ditch that is no longer available to the right holder. The entire right is offered, up-front, for mitigation of depletion to groundwater which will occur for the next 50+ years.

Water Use and Quantity

Most of the 17 ponds are aesthetic features only. However, one of the ponds is fitted with a pump which supplies irrigation water for the subdivision property.

Application for Permit 63-31515 authorizes initial fill of the ponds. Application for Permit 63-33400 seeks authorization for storage use, for irrigation use on 67 acres in a nearly 92-acre permissible place-of-use and for evaporation losses from surface area (12 acres total) of the ponds. Both applications are mitigated by non-use of Decree 63-32614.

I have informed the current Basin 63 watermaster that this pump and these uses exist. He has contacted the applicant's representative and has visited the site. He has requested standard watermaster control conditions on the permit.

Place of Use

The place-of-use is the Rivers End subdivision on Eagle Island in the Boise River. I created the place-of-use shapes based on maps submitted for Transfer 70024.

The aesthetic ponds are the same, 17 shallow ponds discussed as diversion points in the narrative above.

The permissible place-of-use shape for irrigation is 91.7 acres and was created by cutting the pond shapes from the subdivision survey shape provided to me. I made no attempt to exclude the hardscapes that are visible in contemporary aerial photography.

Remarks and Status

Application for Permit 63-31515 was advertised in 2002 and successfully completed the legal notification process. At that time, it was paired with Application for Transfer 70024. Protests to the two applications were withdrawn and SRBA decrees in 2007 resolved ownership and place-of-use issues but didn't completely supplant Transfer 70024.

Application for Transfer 70024 requested a change in source but did not provide satisfactory proof that the shallow groundwater ponds and the Boise River were interconnected sufficiently to meet Department's criteria for authorizing that change.

Analysis performed and furnished by department staff shows that the ponds and the river are connected, but the connection will not be completely fulfilled until years in the future. That same analysis is reused by the applicant and has been submitted to meet the analysis requirement for the mitigation associated with this application.

Transfer 70024 is conditionally withdrawn pending the joint approval of Application for Permit 63-31515 and this Application for Permit, 63-33400.