

MEMORANDUM

TO: Transfer No. 74671 File

FROM: Vicky Music

DATE: April 1, 2010

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to permanently move water right no. 65-22778 (1.5 acre of irrigation, 0.04 cfs/6.8 afy) out of a 477-acre permissible place of use and onto the place of use for 65-8935. The applicants are husband and wife, and Mr. Rumsey, as D R & J Investments, owns 65-22778. Susan Rumsey is the owner of record of 65-8935. The source is Porter Creek.

The majority of the permissible place of use (PPU) of 65-22778 is just across the Payette River from Horseshoe Bend, Idaho, and is south and east of the river. The place of use (POU) of 65-8935 is a mile north of the PPU.

Contacts are the applicants, Don and Susan Rumsey.

Deviations from Transfer Policy Standards

The applicant filed this transfer to give his girlfriend, Susan Pomerleau, water right no. 65-22778 because she did not have sufficient water to irrigate her lawn and garden. Susan has water right no. 65-8935 from a spring but the spring is not a dependable source of water and Susan runs out of water mid -summer if she gets water at all.

There was not property sale or other property transaction by which ownership documents were generated. The applicant has since married Susan. Due to this unusual set of circumstances, it has been difficult to convey to the applicants the type of information needed because it changed upon their marriage.

The application is a mess. The water right no. is wrong in Part 1B(1). It states the no. as 65-2278 instead of 65-22778. The applicants met with Steve Lester in March 2008, who informed them of the information required for the application to be complete. The applicants wrote on the application what Steve told them was needed, but did not provide the information. For instance, in Part 1B(6)(d), under Remarks, they wrote "state if same acres as Pomerleau 65-8935", but did not supply that information. There is a memo in the transfer file from Steve describing in detail what the applicants needed to provide. Pomerleau was Susan Rumsey's surname prior to marrying Don Rumsey.

Additionally, Steve told them we needed maps of where to remove the 1.5 acres from the PPU and if the 1.5 acre was in addition to the 5 acres described in 65-8935 or on the 5 acres. Ownership information was needed – whether the transfer was temporary or meant to be permanent, which

would determine what additional documentation was needed and whether the transfer should rightly be in Susan's name.

The file was assigned to me and I sent a letter to Mr. Rumsey asking him for the information described in Steve's memo, which I attached. Susan called me and told me they were married and made an appointment to come in the office and complete the application. The Rumseys came in on March 17, 2010. Mr. Rumsey stated this to be a permanent transfer and the right is to be in Susan's name. They stated that the transfer was to supplement the spring water right on the 5 acres, and they corrected the map. Because they are now married, Susan was included as an applicant and she signed the application. The maps were amended to show where the 1.5 acres was to be removed (T7N, R2E, S35, NENW) from the 65-22778 PPU and where it was to go on the 65-8935 POU (around the house). The last item needed is a water right deed conveying the right from D R & J Investments to Susan to be used on the same POU as 65-8935 (which the Dept. has received).

The water deed was received from applicants' attorney that transfers the water right to Susan Rumsey for use on her property.

Summary of Information Submitted

Authority to File:

D R & J Investments is the owner of record of 65-22778 and Don Rumsey is the president of the company. Susan Pomerleau, now Rumsey, is the owner of record of 65-8935. They have the authority to file the transfer application.

Water Right Validity:

The SRBA Court issued the Partial Decree for right no. 65-22778 on 8/3/04. Aerial photography for the years 2004, 2006 and 2009 confirmed the validity of the right. The SRBA Court issued the Partial Decree for 65-8935 on 3/26/2002. Aerial photography for the years 2004, 2006 and 2009 confirmed the beneficial use of the right.

Injury to Other Water Rights:

No injury is expected from this transfer. The POD is not changing and will actually be a more efficient use of the Porter Creek water right because it will have a shorter distance to travel.

Enlargement of Use:

No enlargement of either right is expected.

Local Public Interest:

There are no apparent 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 and Discussion

IDWR has asked the applicants for additional information a few times. The latest request regarding a water deed was made via electronic mail on 3/30/2010 which was received 4/19/10. No additional IDWR analysis from other section is necessary. This application will not be parallel processed with the State Office. IDWR will solicit comments from the Basin 65, Payette R. Watermaster. There are no other entities or individuals who should be contacted regarding this application. SRBA status was summarized above in this memo. Mitigation is not required and there are no Water Bank issues.

Right 65-22778 has several 11 POU a 477-acre PPU. The POU overlaps are: 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-10747 – 65-10749, 65-22393A and 65-22775. The PPU will be decreased to 475 acres. The transferred right has 2 POD overlaps: 65-10746 and 65-22775. The new POU of 65-22778 has a spring right appurtenant to it, 65-8935. There are no POD overlaps.

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 a new well is not proposed.