

MEMORANDUM

TO: Application for Permit No. 63-11791 & Transfer No. 73769 Files

FROM: Angie Grimm

DATE: March 26, 2010 Amended April 22, 2010

RE: Evaluation of Sufficiency of Information Submitted

Application for Permit 63-11791 was filed by Meadow Creek Homeowners Association for the storage volume of an aesthetic pond within Wolfgram Subdivision No. 2. The proposed source for the unlined pond is shallow ground water tributary to the Boise River above Star. Boise Valley Irrigation Ditch Company (Ditch Co.) filed accompanying Transfer No. 73769 to change water right 63-31832 to mitigate for the consumptive use associated with the pond. The transfer proposes a nature of use change for 2 acres of irrigation (0.04 cfs and/or 7.0 af) allowing for a "1:1 pond swap".

Wolfgram Subdivision No. 2 is located southeast of the intersection of Bogart Ln and Hwy 44 (State Street) approximately 3.5 miles south east of Eagle. The pond is approximately ¼ mile south of Hwy 44 (State Street) inside the subdivision. The largest portion of the Ditch Co.'s current service area is generally located north/northeast of the Boise River from 1 mile east of Eagle south/southeast approximately 6 miles along Hwy 44 (State Street). The P/D for right 63-31832 is the diversion site shared with Farmer's Union Ditch Co. LTD located on the Boise River in the Garden City/Boise area. The irrigation P/U service area and P/D for the Ditch Co. will not change as a result of this transfer.

Summary of Information Submitted for Transfer 73769

Authority to File: The applicant is the current owner on record. The applicant has authority to change its own right. The associated rights affected by this transfer are also owned by the applicant. The applicant is authorized to do business in the State of Idaho as they are registered with Idaho Secretary of State under Organizational ID C18390.

Water Right Validity: The right is presumed to be valid, because the partial decree was issued on 2/19/2009 within the past five year period.

Injury to Other Water Rights: No injury has occurred nor 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 will be diverted to the pond to mitigate for evaporative losses of the pond. 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 a pond at the same location. Water quality may be enhanced by taking out cultivated acreage and replacing it with the pond and nearby wetland area.

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 2.0 acres to allow for the nature of use changes proposed for mitigation of permit application 63-11791. Historically, the 2.0 acres was irrigated alfalfa per applicant remarks. Alfalfa is considered a highly consumptive crop. This allows for a "1:1 pond swap". The period of use proposed for the Aesthetic Storage nature of use change is year round, rather than the irrigation season, which is consistent with previous Transfer No. 73768 approval for a similar nature of use change of the right proposed for transfer. Considering a de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season and the diversion to storage use shall be limited to the irrigation season, no enlargement should occur should a year round period of use be approved for the Aesthetic Storage use. 5.94 cfs of the currently authorized 49.51 cfs of right 63-31832 is conditioned for conveyance losses. The transfer does not propose irrigation of additional acres and will include the current conveyance loss condition upon approval, therefore no enlargement shall occur.

Local Public Interest: Transfer proposes mitigation for an existing aesthetic pond. Changing the nature of use for 2.0 acres of irrigation is minimal and will not significantly impact the local agricultural base. Reduction in irrigation to mitigate an existing pond 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 63-11791

The application proposes aesthetic storage for a 20.0 AF (2.0 ac surface area) pond. The application indicates the excavated pond fills with shallow ground water and is filled by water pumped from a corrugated pipe just east of the pond, which is tributary to the Boise River. This use is subject to Watermaster control due to the use of shallow ground water tributary to the Boise River. As such, a request for comments on this proposal will be sent to the Watermaster of Basin 63.

The application proposes aesthetic storage for a year round period of use. The transfer application proposes mitigation for this use through diversion of Boise River water during

the irrigation season. A de minimus amount of consumptive use due to evaporative losses will occur during the non-irrigation season.

Right 63-3165 authorizes diversion of 40.0 af from an unnamed drain source tributary to the Boise River for this pond and another water channel within Wolfgram Subdivision No. 2. If approved, permit 63-11791 will have a condition limiting the total diversion of these two rights to 40.0 af in combination.

An amended permit application was requested in my letter March 26, 2010. The amended application was received April 14, 2010.

Discussion

Transfer application 73769 proposes to change the nature of use for a 2.0 acre portion of irrigation use for mitigation of the consumptive use associated with the pond proposed in Application for Permit 63-11741. This change is proposed as a “1:1 pond swap”. Shares of the Ditch Co. water will be placed in the un-lined pond during the irrigation season to mitigate the year round consumptive use of the pond. The transfer will affect the water right record of 63-31832, which is the most current record for this right. The partial decree was issued and the results were migrated prior to transfer processing and data entry.

The P/D for right 63-31832 is also the P/D for the following rights; 63-120G, 63-123C, 63-123D, 63-123E, 63-123F, 63-123G, 63-124Q, 63-125J, 63-126F, 63-164D, 63-165M, 63-198AG, 63-248, 63-297, 63-2360, 63-18700, 63-21729, and 63-31937. The P/D and P/U for other Ditch Co rights will not be affected by this transfer. However, the other Ditch Co rights that list the number of acres authorized for irrigation within the entire service area need to be included in the transfer process as associated rights, because this transfer, if approved, will reduce the total number of irrigated acres authorized from 2806.73 acres to 2804.7 acres within the service area. The associated rights are 63-147B, 63-147D, 63-2360, 63-31198, and 63-31833. There are no other overlapping rights affected by this transfer.

The pond proposed for mitigation in the transfer is to be used for aesthetic storage totaling 20.0 af per the permit application. The consumptive use associated with this 20.0 af capacity pond is 7.0 af (2.0 ac surface area x 3.5 af/ac standard for the area). The purpose of the transfer application is to mitigate for the consumptive use for this pond. The transfer proposes addition of 7.0 af to the existing aesthetic storage use. This adequately describes the volume for mitigation of the pond.

Right 63-31832 is a Boise River source right with a priority date of 06/01/1865. The priority date along with special conditions regarding delivery of this right ensures this right is almost always deliverable and thus a good candidate for use as mitigation.

An amended application to clarify the intended nature of use and P/U change was requested in my letter of March 26, 2010. The amended application was received April 9, 2010.

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.