

MEMORANDUM

Date: December 24, 2009
To: Transfer 76097
From: jstanton
Re: Comment/Analysis

This application proposes to reduce a water right east of Murtaugh Lake in Basin 45 to provide water for an existing dairy in Basin 47 south of Kimberly. The dairy has been operating under a water permit with a mitigation requirement, but the owner has not been able to obtain permission from the Twin Falls Canal Co. to use canal water for mitigation as required. The irrigated land that is being "dried up" to provide water for the dairy will receive canal shares from the applicant to replace the groundwater being moved to the dairy. If the transfer is approved, the permit will be relinquished; the mitigation requirement will cease to exist. No land will actually be dried up at the original place of use; the flow rate and volume of the groundwater right remaining on the original farm will be reduced.

Parallel Processing Required:

Advertising Required: Yes.

Authority To File: The applicant is the owner of record for the new pou per Water Permit 47-8246, and have also provided a copy of the property deed. Darrell Funk is the owner of record for the right being transferred to the Sudik property

Water Right Validity: Recent ArcMap photos show that the Funk property is irrigated, so this is not an issue.

Injury To Other Rights: Although some of the wells covered by the right being transferred are inside the ESPA, only the wells in Sec. 10 currently provide groundwater for the Funk property. The other wells have been converted to dairy use or have been abandoned, according to SW Irrigation District hydrologist Brian Higgs. So both the current pods and the proposed pods on the Sudik property are outside the ESPA and therefore not subject to mitigation requirements for the proposed move.

Enlargement of Use: The groundwater right being moved is a small portion of the groundwater and surface water appurtenant to the Funk property. Although is about 9.1 cfs of groundwater and a total of up to 9.46 cfs of surface water appurtenant to 1647 acres under these water rights, Funk actually owns several thousand acres in this area; besides other groundwater rights and an unknown number of TFCC shares, he also has about 5000 shares of MID water. The groundwater is a known quantity, while the surface water may or may not be available. The 2 wells in Sec. 10 pump into the Milner Main Canal, which carries the water to a re-lift pump in the east end of Murtaugh Lake. These wells are just outside the ESPA, so no pumping records exist for them. Right 45-2746 is pumped from a well into the Snake River at Burley before being rediverted into the canal system and ending up in Murtaugh Lake. Right 1-7072 comes out of Milner Reservoir, also ending up in Murtaugh Lake for re-diversion at the relift pump. Right 45-13644 is a wastewater right that is supposedly diverted 1/2 mile west of the Sec. 10 wells; Mr. Funk did not know much about it, and I suspect that it is a paper right describing water that has not existed for several decades. A buried mainline from the relift pump feeds the irrigation system on the Funk property, which includes additional land not under the right being moved.

Based on the above information, it is clear that groundwater is a supplemental source for the Funk

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property. I think we need to know what the current use of the canal water owned by Sudik is, and how this will be affected by trading this water to Funk.

Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified.

Review of the application finds that there is no clear inconsistency with criteria set forth in Sec. 42-222 I. C. preventing processing. At least prior to advertising, no other issues have been identified that would require further review or submittal of additional data by the applicant.