

MEMORANDUM

TO: Transfer No. 75810 File

FROM: Vicky Music

DATE: February 19, 2010

RE: Evaluation of Sufficiency of Information Submitted

Two transfers were filed to reconfigure 2 water rights, 65-1663 and 65-9066, for the 12 lots in the Russell Subdivision.

Transfer no. 75809 was to split the primary underlying right into 2 rights for the 2 systems. The split had to be made as a “pre-transfer” split to make it work with the IDWR database data entry. So, right no. 65-9066 was split into 65-23410 and 65-32411. Right no. 65-23411 will become appurtenant to the north part of the subdivision which is the subject of this transfer no. 75710.

This transfer proposes to transfer 65-23411 and no. 65-1663, onto the 6 lots in the north half of the Russell Subdivision. No. 65-1663 is a de minimus right for domestic use, 0.04 cfs.

The site is approximately 0.5 miles north of the City of Emmett and the Payette River. Contact person for the applicant is consultant, Lori Graves, SPF Water Engineering.

Deviations from Transfer Policy Standards

The application was submitted in July 2009 on the “old” transfer form because of the time required to procure all of the signatures from the homeowners. This is okay and will not interfere with transfer processing.

The right was decreed in the SRBA with the PODs described to the QQ, according to IDWR policy. The transfer application describes the two wells to the QQQ. If this is what the applicant wished, so be it. It will not delay processing of the transfer.

There is not a homeowners association for Russell Subdivision so the 6 lot owners in the north portion of the subdivision, whose lots will be part of a new system under this transfer, signed the application. In some instances, only 1 owner and not the spouse signed the application even though the attached warranty deed used an “and” connector. Separate statements were included as an application attachment of all of the owners granting permission for the transfer. Hence, all of the property owners signed something agreeing to the application.

The south lot owners should have signed the transfer application also because their property is affected by this transfer. However, they signed transfer no. 75809 and their statements consenting to the transfer are included in that file. Due to the difficulty and time required to obtain signatures, processing of this transfer will not be delayed by these deviations.

The PODs for the north portion of the subdivision will be the two existing PODs on the same lot, the primary well that was the POD for 65-9066, and a backup well that was the POD for 63-1663.

Summary of Information Submitted

Authority to File:

The Russell Subdivision is the water right owner of record in the IDWR database. There is not homeowners' association

Water Right Validity:

The partial decree was issued by the SRBA Court for right no. 65-1663 on 6/26/2002. Beneficial use was confirmed by a 2009 aerial photo, hence the right is presumed to be valid.

Injury to Other Water Rights:

No injury is expected.

Enlargement of Use:

I believe that an enlargement is unintentionally proposed is this transfer, but will be prevented by limiting the quantity and reducing the annual volume. The backfile for 65-1663 states that right no. 65-1663 was decreed for one home and yard in the Payette River Basin Adjudication (PRBA) but has always been a backup POD for the entire subdivision. The SRBA decree mirrors the PRBA decree which was standard procedure because the SRBA commenced a relatively short time after the PRBA was finalized. E-mail correspondence with the consultant confirmed that the 2 wells are never used at the same time and that the 65-1663 well is a backup well only.

This transfer proposes a total quantity for 6 homes of 0.28 cfs. Right 65-9066 was for internal use only but the quantity was 0.48 cfs, the full quantity of 0.04 cfs per home. IDWR standard for 12 homes, internal domestic use only, is in the 0.15 cfs – 0.18 cfs range.

The transfer should limit the total quantity to $0.04 \text{ cfs} \times 6 \text{ homes} = 0.24 \text{ cfs}$ which is the quantity of the proportional share of 65-9066, the primary right. This quantity is still in excess of what the standard is for 6 homes, internal use only, but there is no rationale for cutting this decreed quantity further.

The volume decreed for 63-1663 was 1.2 afy and will be reduced to 0.6 afy, the standard for internal use for 1 home. The proportional decreed volume for 63-23411 is 7.2 afy. The IDWR standard for internal use in 6 homes is 3.6 afy. The total volume approved via this transfer will be 3.6 afy. This reduction is appropriately made here because a verification of beneficial use is required as part of the transfer analysis.

Local Public Interest:

There are no apparent local 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

The applicant does not need to provide anything nor is IDWR analysis needed from other areas of IDWR to complete review and processing of this application. There is no water district or watermaster comments to be solicited because the source is ground water. Comments from other entities or individuals or not

required. SRBA status was provided in a previous section of this memo. There are no mitigation or water bank issues.

Right 65-1663 is for a de minimus domestic use with the 0.5 acre irrigation component. The Emmett Irrigation District provides the irrigation water to the subdivision. The only overlapping right was 63-9066, which is the subject of the second transfer that is being processed concurrently, no 75809. Right 63-9066 was split by the transfer into 65-23410 which is appurtenant to the south 6 lots and 65-23411 for the north 6 lots – the POU for this transfer. After this transfer, 65-1663 and 23411 will be the rights appurtenant to the north. The system will be separate from right 65-23410 which will have its own POD and there will not be an overlap.

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 is not applicable because a new well is not proposed.