

MEMORANDUM

TO: Transfer No. 68497 File

FROM: Cherie Padilla

DATE: February 16, 2010

RE: Evaluation of Sufficiency of Information Submitted

This application for transfer was submitted in 1999 and was originally known as Transfer #5813. Over the years the transfer had been renumbered to #68497. This application was submitted simultaneous with Transfer 68498 and are meant to be approved together. The department was waiting for recommendations to be issued by the SRBA before the final processing and approval of the two applications.

The transfer proposes to create an 841.1 acre PPU. Originally the transfer proposed the creation of a 750.4 acre PPU and updating the PDs. However, changes to the PDs have been accomplished in the SRBA recommendations leaving only the PPU issue to be resolved. The amended transfer application reflects a larger PPU than originally requested and advertised however, the irrigated area has been reduced from 672 acres as advertised to 638.1 acres.

The site is approximately 7 miles to the west of the city of Carey and nearly 13 miles easterly of Magic Reservoir.

Contact person for the applicant is Brockway Engineering. On March 2008, the applicant's managing member, Gerald Bashaw, signed a Limited Power of Attorney, granting Brockway Engineering signatory authority.

Summary of Information Submitted

Authority to File: The rights involved in this transfer have two different current owners of record (see Table 1). Bashaw Family Trust/Brett & Patricia Bashaw Family Trust, are both overseen by Gerald Bashaw (managing member/trustee). Gerald Bashaw is considered an authorized agent and is authorized to make this transfer application on behalf of both owners.

When the application was initially reviewed, IDWR staff evaluated the ownership questions and I will assume the question of ownership was fully satisfied at that time and will not re-evaluate the deeds that were submitted by the applicant. I did perform a cursory review of the taxlots within the PPU and found a few parcels that were listed as owners other than the applicant. I requested proof of ownership or an agreement from IDF&G and Point of Rocks Ranch that allow the PPU proposed in this transfer to include their property. The applicant and representative dropped the parcels in question from the transfer once they realized that the applicant does not have ownership over them.

Water Right Validity: Rights presumed to be valid based on the pending SRBA recommendation. The SRBA objection period is over and objections were not filed.

Injury to Other Water Rights: Injury is not a concern in this transfer application. The transfer is simply proposing to expand the PPU boundary to include land within the originally proposed PPU, or in-other-words, to fill in the gaps of the current PPU.

Enlargement of Use: Prior to the transfer the subject rights encompass a 638.1 acre PPU. The transfer is proposing to expand the PPU by 203 acres. All other elements of the rights will remain the same. In order to avoid enlargement of use, a condition will be added to the transfer approval that requires the applicant to identify the acres that are being irrigated within the PPU.

Local Public Interest: The original transfer application has been advertised to determine local public interest and no protests were filed. The amended POU is not changing radically from what was originally proposed so re-advertising will not be required.

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.

Analysis

Watermaster comments: On 8/31/2000, the watermaster for WD 37 submitted a letter that stated he endorsed the proposed transfer and didn't have any concerns or suggestions for specific conditions. Since PPU is not going to create a hydrologic change from how the right is currently used, up-to-date watermaster comment is not required.

Discussion

SRBA status: decrees have not been issued as of the date of this memo

POU: The QQs within the proposed PPU are not standard 40 acre QQs. Some of the QQs are larger than 40 acres while adjacent QQs are smaller. By manually entering in the acreage, we were able to duplicate the acreage as submitted in the application.

Overlapping rights at existing &/or proposed P/U: the rights within this transfer are fully overlapped with surface water rights that are identified in transfer #68498. Prior to the transfer they all encompass the same 638.1 acre PPU and will stay fully overlapped after both transfers are complete as they both are requesting the same PPU. There are no other rights that overlap the current or proposed PPU.

Summary

Assuming other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.