

MEMORANDUM

TO: Transfer No. 68272 File

FROM: Steve Lester 

DATE: January 26, 2010

RE: Evaluation of Sufficiency of Information Submitted

This transfer dates to 1995 with a confusing history. It lingered without approval due to SRBA and other issues. It was rejected 10/19/09 but reinstated 11/6/09 based on a timely petition to reconsider. Processing can resume.

The transfer proposes adding a second well that was drilled under an approved drilling permit in 1995 (see Discussion section of memo). The application was previously advertised without protest. Re-advertising is not needed.

The site is by Maple Grove Road in southwest Boise.

Send a courtesy copy of the transfer approval to consultant Steve Hannula with ERO Resources. Although he did not represent the applicants earlier in the process, he helped them negotiate a successful path to reinstate the application.

Summary of Information Submitted

Authority to File: The applicants include 4 Murgoitios. The right was decreed to 2 of them. Murgoitios were going to provide ownership change information for the transfer to be processed in all 4 names. They are working on doing that for all their rights, which is proving more difficult than they thought. The transfer can be issued under the current owner names. Murgoitios can update ownership information later in a separate process.

Water Right Validity: The right was decreed in 2007 and is presumed to be valid.

Injury to Other Water Rights, Enlargement of Use & Local Public Interest: The second well is close to the original well. Injury and enlargement will not occur by using a second well subject to the limits of this right. Approval of the transfer is consistent with the local public interest.

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 approval of the application.

Discussion

The right has been decreed and migrated in the database. The application acts on the correct record.

Right 63-17946 does not include commercial use for a dairy. Commercial use is covered under right 63-32217 and permit 63-31662. An overview of all 3 records is found in database comments from 63-32217:

1. jshurte 12/10/2005 Dairy use over the years

Comment: The Murgotio farm basically has progressed from 1930 to the present adding dairy cattle and use along the way. This claim represents the use in 1930, Claim No. 63-17946 represents the use from 1930 to 1955 and Water Right No. 63-31661 represents the use from 1955 to 1987. Many calculations have been based on a private consultant along with Department standards. This has been done to avoid stacking claims for one priority date (1930) representing what is presently being farmed rather than the progression of expansion. See Claim No. 63-17946 for most of the information on these filings. See also calculation sheet in file which determined the amounts of cfs and af given in this recommendation.

I think the reference to 63-31661 is a typo – that right is associated with 63-17945 for Murgotio operations about ½ mile north in Section 2.

NWNW S.12 operations include 63-31662 and 63-17946 plus 63-32217. So it is easy to see how a typo would occur.

One well existed in NWNW S.12 before 1995 and has been used for older rights 63-17946 and 63-32217.

A second well was drilled in 1995 under a replacement drilling permit for 63-17946 until this transfer could be approved for the new well to be added to 63-17946 (properly paid for and conditioned in drilling permit approval). Note claim 63-32217 was not filed until 2005, but it could not include two wells since the new well was added after SRBA commencement. Right 63-32217 could be changed to include the new well in another transfer if the owners want to do that.

Permit 63-31662 was filed in 2003 to cover uses beyond the other two overlapping rights. It probably should have included the original well and the 1995 “replacement” well. That could be handled in licensing this permit.

POD Overlap Conclusions

63-17946, 63-31662 and 63-32217 probably should include both wells in NWNW S.12. That can be addressed for the latter two records in separate actions beyond this transfer.

Condition F06 in 63-32217 references 63-17946. A modified version of condition F06 should add this linkage to 63-17946 for the older well but not for the newer well. Linkage for 63-31662 should not be used in this transfer since the latter is still a permit.

Summary

Approve the transfer with mostly standard conditions.

Condition 046 n/a since the new well was already drilled.

Include the following conditions:

1. Stockwater use is for a dairy.
2. Modify condition F06 as follows:

Right 63-32217 is diverted through one of the two points of diversion described above.