

TO: TRANSFER FILE

FROM: DANIEL A. NELSON

DATE: 3/14/2008

SUBJECT: EVALUATION OF SUFFICIENCY OF INFORMATION SUBMITTED

Lori Graves began the initial review of the above mentioned transfer in December of 2006. Ms. Graves composed a memorandum for this transfer for the information that was provided at that time. It was determined by Ms. Graves to hold the transfer pending the outcome of the Owyhee County Conditional Use Permit findings. Since that time Ms. Graves has left the Idaho Department of Water Resources (Department) and the transfer review was given to me to complete. Whereas, Ms. Graves did the majority of the review work on the transfer, it did not seem reasonable to rework that information. Therefore, this memo will be used to update Ms. Graves findings and to address any new or additional information received.

The first and most important change in this transfer is the change in the applicant's representative. The original representative was the consultant Darwin Vanderstelt. However, the applicant has retained Scott Campbell and Andrew J Waldera of Moffett Thomas. Therefore, the new representatives are Scott Campbell and Andrew J. Waldera.

The original transfer form was received on January 13, 2006. During Ms. Graves review she found several issues that needed to be corrected. She worked with Darwin Vanderstelt and an amended transfer was supplied to the Department. The amended transfer was not signed by the applicant until March 14, 2008.

All of the issues that Ms. Graves requested additional information on have been addressed in the amended transfer information, except for the information from Owyhee County. The applicant's representatives contacted the Department administration and made a formal request that the transfer processing proceed without the information requested from Owyhee County. The Department determined that it would move forward without this information.

There are two places in Ms. Graves' memo that she did not complete. The first place is under the Injury to Other Water Users paragraph and the other is under the Local Public Interest paragraph. The correspondence she sought from Mr. Vanderstelt was tied to the Owyhee County Conditional Use Permit findings by Owyhee County. Department administration has waived that requirement, so this correspondence is no longer needed to process the application through the advertising phase of the transfer process. All other information required other than the Owyhee County information has been addressed in the amended application for transfer.

CONDITIONS AND SUGGESTIONS

The main reason that this transfer was being held was that there was concern shown by the CAFO Siting team, which is comprised of several state agencies. The CAFO Siting team gave this facility a High Risk rating. On top of this rating, the representative has insisted that this transfer be processed without receiving information from Owyhee County on whether or not this dairy expansion will be allowed. Without confirmation from Owyhee County that this project can be completed, I am concerned that we could approve a transferred water right on dairy where the water right cannot be put to beneficially use. Due to the agreements between the Department and the applicant's representatives, this transfer should be processed and advertised and prepared for approval/denial. However, if Owyhee County does not approve the conditional use permit for the proposed dairy expansion, then the transfer should be denied.