

MEMORANDUM

TO: Transfer No. 73902 & 73903 Files

FROM: Steve Lester

DATE: November 6, 2009

RE: Evaluation of Sufficiency of Information Submitted

Troost filed these applications in 2005 for two adjacent farms with separate diversion systems. The applications remove 38 acres of irrigation from one farm and move it to the other farm. Each farm will also have a reconfigured PPOU. Also, application 73903 corrects the location for 3 existing wells in the south portion of Section 36: all are in SESW. See review memo attachment for overview.

The applications lingered in the backlog until now. Last summer, Troost had a well emergency and filed Transfer 74917 to add a well to the system addressed in application 73903. Transfer 74917 was processed and approved within a few days to help the owner save his crop.

The site is a few miles northeast of Parma near the Canyon County-Payette County line. Note all the land in both applications is in Payette County, except for Section 35 in Canyon County (see 7/8/08 review memo in Transfer 74917 for details). Legal notices will be published in both counties due to this. Application 73903 lists the incorrect county for the Section 35 well. It is acceptable to deal with this without amending the application. The database lists the correct counties for all the wells.

Contact person for the applicant is consultant Steve Hannula with ERO.

Correspondence for both applications is stored in application 73902.

Deviations from Transfer Policy Standards

The applications are the older forms that required notarized signatures, which were included. Current forms do not need notarized signatures. The owner's email confirmation for the consultant to amend the applications is an acceptable practice in this situation.

Rights 63-3065 and 63-9279 are split in application 73902. Part 2B-C is appropriately completed in that application. The remaining portions of those rights are also involved in application 73903. Part 2B-C was blank in the latter application instead of showing a split. This is not confusing when considering both filings together. Allow the deviation in 73903 Part 2 B-C.

Regional staff did in-house adjudication splits so 63-3065 and 63-9279 could be included in both transfers for simultaneous processing. The splits were as follows:

63-3065 into 63-33289 (73902) and 63-33290 (73903)
63-9279 into 63-33291 (73902) and 63-33292 (73903).

Reduced fees were paid for both applications. Application 73902 adds 38 acres/0.68 cfs (\$100 fee) from split portions of 63-3065 and 63-9279. Application 73903 adjusts about 88 acres of irrigation from land used mostly for the dairy per 10/14/09 consultant email. Maximum rate for those acres would be 1.76 cfs (\$290 fee). Both applications create or modify places of use for reconfigured PPOUs. Some incorrect well locations are corrected in 73903. While it is technically true that entire rights are being changed in both applications, the heart of the proposed changes is the lesser amounts of water. The reduced fee request is reasonable in this situation and can be seen to somewhat offset the lengthy delay in processing due to backlogs etc.

Summary of Information Submitted

Authority to File: All the rights are in the name of Greg or Joyce Troost, allowing them to file the applications. The name connector in the applications is “and/or,” and the connector in the rights is “or.” Allow this but use “or” for the approved changes.¹

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

Injury to Other Water Rights: Injury should not occur by reconfiguring two PPOU. New wells are not proposed.

Enlargement of Use: As explained in the application narratives, enlargement will not occur by restructuring the rights as proposed.

Local Public Interest: The applications advance local public interest by enhancing an irrigation and dairy operation already the focus of two unopposed and approved transfers in recent years (transfers 5546 and 74917).

Beneficial Use/Conservation of Water Resources: The applications propose beneficial uses consistent with conservation of water resources in Idaho.

Review of the applications finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the applications.

Discussion

Overlap issues are not found for these applications. The only rights involved are those in the applications. Although some of the proposed PPOU's falls within the service area of Black Canyon Irrigation District, surface water is not part of the equation (information in these applications plus two prior approvals for transfers 5546 – created dairy – and 74917 – added emergency well).

The following tables summarize the applications and confirm enlargements will not occur. Application 73902 only involves irrigation. Application 73903 includes irrigation and dairy uses.

¹ 12/14/09 update: Section 26 ownership is under applicant names per consultant 11/10/09 email reply with deed.

Table 1. Irrigation Summary Proposed in 73902, Farm #2.

WR	ACRES	CFS	AFA	NOTES
63-33289	038	0.51	171.0	Split from 63-3065
63-3307	212	3.73	954.0	100 % of right
63-8244	065	0.65	292.5	100 % of right
63-8387	451	4.46	2030.0	100 % of right
63-33291	038	0.17	89.7	Split from 63-9279, same acres as 63-3065
TOTAL	491 (640 ppou)	9.52	2209.5	38 acres x 4.5 afa/acre = 171 afa added; 0.51 + 0.17 = 0.68 cfs added

Table Notes

- Rights start and remain at full volume per acre.
- Move same 38 acres in 63-33289 and 63-33291 splits from Farm #1 to Farm #2.
- Split cfs for 63-33291 is $0.174556 = 0.17$, not 0.175 in application.
- Total affected cfs for 38 acres in application is $0.51 + 0.17 = 0.68$ cfs, not 0.69 cfs on page 1 of application.

Table 2. Combined Limits in 73902, Farm #2.

WR	ACRES	CFS	AFA
Existing SRBA limits 63-3307 + 63-8244 + 63-8387	453	8.84	2038.5
Additions from splits 63-33289 + 63-33291	+ 38	+ .68	+ 171.0
TOTAL	491	9.52	2209.5

Table Notes

- 73902 does not reduce existing combined limits 63-3307, 63-8244 and 63-8387.
- 73902 adds 38 acres to Farm #2, slightly less than 0.02 cfs/acre, allows full volume.
- No enlargement.

Table 3. Irrigation Summary Proposed in 73903, Farm #1 (Dairy Uses Included in Table 4).

WR	ACRES	CFS	AFA	NOTES
63-33290	104.0	1.40	468.0	Split from 63-3065
63-3315	588.5	4.38	2250.1	100 % of right
63-3547	239.5	1.98	1017.2	100 % of right
63-3581	588.5	0.93	477.8	100 % of right
63-33292	632.5	2.91	1492.5	Split from 63-9279
TOTAL	640.1 (1002 ppou)	11.60	2880.5	Remains at 4.5 afa/acre

Table 4. Combined Limits for all uses in 73903, Farm #1.

WR	ACRES	CFS	AFA
IRRIGATION			
Existing limits from Transfer 74917	678.1	12.28	3051.5
Reduction from Appl 73902	- 38.0	- .68	- 171.0
TOTAL in 73903	640.1	11.60	2880.5
IRRIGATION + DAIRY			
Existing Irrigation limits from Transfer 74917	678.1	12.28	3051.5
Existing Dairy limits from Transfer 74917	N/A	+ 2.55	+ 399.8
Combined limits	678.1	14.83	3451.3
Reduction from Appl 73902	- 38.0	- .68	- 171.0
TOTAL in 73903	640.1	14.15	3280.3

Table Notes

- 38 acre reduction decreases 73903 combined limits by 0.68 cfs and 171 afa.
- That is same amount of water moved in other application.
- 73903 provides slightly less than 0.02 cfs/acre, allows full volume.
- No enlargement.

Summary

Both applications appear approvable if not protested. See draft approvals. Condition 046 n/a - no new wells.

Adjudication records are used in the applications. Adjudication records are stayed at the court pending these applications. Possible approval of the applications will assist the adjudication process.

T. 73902 & 73903
Revised Memo Attachment

