

MEMORANDUM

TO: Transfer No. 75266 File

FROM: Vicky Music

DATE: December 7, 2009

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to correct the legal descriptions of the PODs and POUs of decreed water rights 65-9716 and 65-18088. No. 65-9716 is a Payette R diversion for the irrigation of 2 acres and 65-18088 is a ground water diversion for a domestic right. The transfer also seeks to change the ownership of the rights.

The site is located in Scott Mountain Subdivision in Garden City, Boise County.

Contact person for the applicant is the applicant, Victor LaPorte.

Deviations from Transfer Policy Standards

There are a couple of deviations from policy standards that should not delay the processing of this transfer. The transfer is for rights from different sources, both ground water and a surface water (Payette R) diversions and separate diversion systems. Transfer memo 24 states that transfers for rights with different systems must be made by separate transfers. To require the applicant to file separate applications for this simple correction of IDWR records would be an inefficient use of staff time and an unnecessary expense for the applicant. During this time of state budget shortfalls, staff layoffs and transfers to other offices, increased workload for the remaining staff, the transfer application should be processed as submitted.

In the application, Part 1 (B) (3), the applicant mixed up the sources when listing them here. This mistake is insignificant because the information is readily available in IDWR records.

Summary of Information Submitted

Authority to File: The applicant submitted a valid warranty deed that conveys the property from the IDWR owners of record [applicant's parents] to the applicant.

Water Right Validity: The rights were partially decreed by the SRBA Court in 1998. IDWR has few aerial photos of Boise County and the lot appears heavily wooded. There is no apparent difference in the 2009 aerial when compared with the 2006, 2004 and 1987 aerials. The rights are presumed to be valid.

Injury to Other Water Rights: There is not injury expected from this records correction.

Enlargement of Use: No enlargement is proposed.

Local Public Interest: There are no conflicts 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 processing of the application.

Additional Information/Analysis and Discussion

No additional information or analysis is needed from the applicant, IDWR staff, the watermaster or other parties or entities.

The errors in the legal descriptions appear to have originated when 65-9716 was claimed and decreed in the Payette River Adjudication (PRBA). The legal description claimed in both the PRBA and the SRBA is in the same township/range [T10N, R4E] but different sections. A copy of the PRBA claim for 65-9716 shows it was claimed in the wrong section and QQ. The maps of the PRBA in the SRBA claim file do not have any township, range reference. The arials do not help because the area was mostly undeveloped at that time and it is tough to get oriented. The lot is correctly located in section 23 NWNE, about 1.2 miles north of where it was claimed in section 26 SWNW. When 65-18088 was claimed in the SRBA, the claimant just used the POD and POU description in 65-9716.

Other evidence that this was an error is that IDWR has a well log in section 23, NWNE drilled for Francis LaPorte [the applicant's father] in 1973. There are no well logs in the LaPorte name in section 26. The elder Mr LaPorte filed the SRBA claim for Lots 3 and 4 and also listed the lots in the POU description, which is where the government lots are designated. When looking at the Scott Mountain subdivision, it is more likely he meant the adjoining lot in section 23. As it is, it simply added to the confusion.

In 1999, the applicant, Victor LaPorte, filed a change of ownership with IDWR. It was rejected at that time because the legal description in the deed did not match the legals in IDWR records. The deed legal is Lot 3, Block 2, Scott Mountain Subdivision #1. When this transfer was filed in 2008, the applicant included the Boise Co Assessment notice in his name. The deed description matches the description provided on the notice.

SRBA status was stated in the Summary of Information Submitted, Water Right Validity section of this memo. No overlapping rights at existing &/or proposed POD &/or POU except for the 2 rights that are the subject of this application.

Mitigation is not an issue here.

Summary

The application can be approved **without advertising** as reflected by the draft approval.

Condition 046 n/a since a new well is not proposed.