

MEMORANDUM

TO: Transfer No. 69332 File
FROM: Steve Lester 
DATE: October 16, 2009
RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to correct the inaccurate record plus add a second existing well for backup use.

The site is bisected by Hwy 95 about 5 miles southwest of New Meadows.

Contact person for the applicant is Terry Scanlan, SPF Water Engineering.

Summary of Information Submitted

Authority to File: The applicant is the owner of record for the right and can file the application.

Water Right Validity: The application was filed in 2001 while the right remained in the SRBA. After objections were resolved, the right was decreed by late 2008. The right is valid.

Injury to Other Water Rights: The only other rights in the vicinity are those for the same lumber mill operation. Injury is not a factor.

Enlargement of Use: Enlargement will not occur by correcting the record to match the actual site and by adding a backup well.

Local Public Interest: Local public interest is enhanced by updating this right. The operation provides numerous jobs at the site and for related economic activities.

Beneficial Use/Conservation of Water Resources: The application does not change the nature of use and remains consistent with beneficial use and conservation of water resources factors.

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

Discussion

The application was filed in mid-2001 to correct the license and add another well to the right. The second well was drilled under a replacement drilling permit later that year, an error already addressed. The transfer was amended by the end of 2001 to address some reviewer questions.

The application lingered due to SRBA and other factors. Finally, the right was decreed in October 2008. The decree was migrated in the database earlier this week, allowing the correct record to be used in Workflow.

Legal notice was sufficient. The original application was published in August 2001, and the POU was only listed to the section under the practice at that time. The notice had to be republished since the applicant address was omitted from the ad. The second notice ran in September 2001 and did not identify PLS information for the POU. However, that notice mentioned water was used at the Tamarack Mill, providing clear information of the location in that manner.

The amended application add a second ¼ ¼ to the POU. The amended application was not republished. This situation does not warrant another ad since we do not include PLS information in current transfer ads. The public has had ample opportunity to review the application and file protests, which were not filed. Value is not added to the process by advertising the amended application. A re-advertising fee is not needed.

Minor discrepancies in owner name are acceptable. The right was licensed, claimed, recommended and decreed under Tamarack Energy. The transfer was filed in the name of Tamarack Energy Partnership. The applicant noted the latter version has always been the formal name of the company, although used in everyday conversation as Tamarack Energy. The IDSOS website confirms only 1 entry for a “Tamarack Energy,” and that is for Tamarack Energy Partnership (D34088). This is reinforced by the 11/29/1999 letter from claim 67-7274: lists Tamarack Energy Partnership, also references associated entities Tamarack Mills and Evergreen Forests Products, including several Hitchcock people. That letter is included as an attachment to this memo.

The right is properly released from the incorrect POU by the letter from the owner of the incorrect site – see Hitchcock 12/11/2001 letter.

Allow the application name to be used and to update the correct name for this right (clarification instead of ownership change).

Overlap for the site includes the following listed under combinations of the above referenced entities:

- 67-4008, Weiser River for industrial use in part of the transfer POU
- 67-7274, well in NWNW for industrial use in part of the transfer POU.

- Overlap does not complicate the transfer.

The application changes the POU without including ownership documents for the “new” POU. However, the following information sufficiently covers that issue:

- The transfer right is used on some of the same land as the overlapping rights.
- Overlapping rights include owners closely interwoven with the applicant.
- Current tax lot information lists Tamarack Mills as the owner of the transfer POU.
- Tamarack Mills is managed by the same entities/people associated with the transfer applicant.
- It is reasonable to assume the applicant owns the right and has authority to operate on land owned by one of the associated entities.

A related Application for Amendment of Permit 67-8037 was filed in late 2001 when the transfer was amended. That permit lapsed. The amendment application is no longer applicable and will be returned with the transfer approval.

Summary

Approve the transfer as reflected in the draft approval. Condition 046 n/a since additional well drilling will not occur. Adjudication condition U42 about state land probably has no bearing on the proposed POU – but retain it just in case, does not harm anything to keep it.

RECEIVED

DEC 03 1999

WATER RESOURCES
WESTERN REGION

→ *Tamarack Mills, LLC*
dba Evergreen Forests
DRAWER H • NEW MEADOWS • IDAHO 83654
PHONE (208) 347-2111

November 29, 1999

Idaho Department of Water Resources
Attn: Mr. Mel Schulte
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Schulte:

Enclosed please find applications to file water rights and checks in the appropriate amounts to cover the filing fees for the following entities:

→ **A67-04131 - \$50.00**
Evergreen Forest Products, Inc.
3555 Hwy 95 Tamarack
P.O. Box H
New Meadows, Idaho 83654

President – Robert Hitchcock
Vice President – Todd Hitchcock
Secretary/Treasurer – Elaine Hitchcock

→ **A67-07598 - \$120.00**
Tamarack Energy Partnership
3555 Hwy 95 Tamarack
P.O. Box H
New Meadows, Idaho 83654

Managing Partner: Evergreen Energy, Inc.
President – Robert Krogh
Vice President – Todd Hitchcock
Vice President – Robert Hitchcock

→ **A67-07274 & A67-04088 - \$331.00**
Tamarack Mills, LLC
dba Evergreen Forests
3555 Hwy 95 Tamarack
P.O. Box H
New Meadows, Idaho 83654

Manager – Robert Krogh
Agent – Todd Hitchcock
Agent – Robert Hitchcock

"Separate
but
± same"

If you have any further questions please don't hesitate to call at 208-347-2111.

Sincerely,



Todd Hitchcock

Copy from A67-7274 file
T. 69332 REVIEW MEMO ATTACHMENT