

MEMORANDUM

TO: Transfer No. 74506 File

FROM: Vicky L. Music

DATE: January 14, 2009 – revised May 20, 2009

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to change the points of diversion of water right nos. 63-2973 and 63-7103. The original permissible place of use has been divided by a property sale and the point of diversion (1 well) is no longer located on the place of use owned by the applicant.

The site is in the Boise City area, approximately 4.5 miles southeast of downtown Boise on Warm Springs Ave (Highway 21).

Contact person for the applicant is consultant, Steve Hannula, ERO Resources Corp.

Deviations from Transfer Policy Standards

ERO has converted the application to a computer generated application so the applications submitted by ERO will vary from the IDWR form, though all of the items are included. This application form complies with the requirements of the transfer memo.

In Part 2(A) (2), the application did not indicate what documentation is included to show ownership. However, the applicant is the owner of record in the IDWR database.

One of the PODs, the existing well, was listed on the application as being in the NESW Section 20 but on the map attached to the application, appeared to be in the SWSW Section 20. I contacted the consultant about the inconsistency. He confirmed the well is in the SWSW and came into the office to correct the typographical error.

Three rights comprise the 355-acre PPU; 63-365, 63-2973 and 63-7103. Right 63-365 is a surface water right with a Warm Springs Creek source. It was not included in this application because the application only affects the ground water rights in the PPU. Combined use PPU remarks will be retained so this should not delay the processing of this application.

Summary of Information Submitted

Authority to File: The applicant is the owner of record in the IDWR database.

Water Right Validity: Right presumed to be valid because the partial decree was issued on 3/10/2008 within the past five year period.

Injury to Other Water Rights: There is not expected to be injury to other rights because the applicant owns the 355 contiguous acres of the permissible place of use.

Enlargement of Use: The application does not propose an enlargement.

Local Public Interest: There is nothing in the file or in my search of Department records to indicate that approval of this transfer would not be in the local public interest.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use(s) 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 &/or Analysis

No additional information is needed from the applicant and no additional IDWR analysis is needed.

Watermaster comments are required. A letter will be sent to the Basin 63, Boise River, Watermaster.

There are no other issues that require the Department solicit comment letters.

Discussion and Summary

The place of use was part of a 590 permissible place of use (PPU). During the SRBA, the Court allowed a post-1987 transfer and division of the 590 PPU. The portion that is the subject of this transfer was left without a point of diversion (POD).

This transfer proposes to add five points of diversion (PODs). Two of the PODs are proposed to be wells; one is an existing well that services a household and the second well is proposed. The remaining three PODs are proposed to be in the middle of ponds to be excavated to a depth of 20'-25'.

The proposed diversion system will include irrigating from the existing well and from the ponds. If shallow ground water does provide sufficient water in the ponds for irrigation, then the proposed well will be drilled and water will be pumped into the ponds when irrigation booster pumps are operating.

The consultant provided an extensive evaluation of the hydrology of the site and surrounding area as Attachment 1 of the application. There is sufficient evidence that the ponds, the proposed well and the existing well intercept the shallow aquifer tributary to the Boise River and is the same source as the original source.

Irrigation storage is not required under this application because the ponds are considered to be point sources and there is a recent application for permit no. 63-32966 for aesthetic storage. The new application addresses the new storage use and includes a mitigation plan for evaporation. This is consistent with IDWR protocol.

Boise Kuna Irrigation shares will also be used for irrigation. Other overlapping rights are 63-365 and 63-8627. As stated above in the *Deviations from Transfer Policy Standards* section of this memo, 63-365 is part of the PPU, but not included in this transfer because the source is the Warm Springs Creek. The combined use PPU remarks will be retained. Right no. 63-8627, a licensed ground water right with a geothermal source, overlaps the entire PPU. The combined use remarks will be retained.

The new application 63-32966, referenced previously in this section, will change a 5.6 acre portion of 63-365 & 63-2973 to mitigation for consumptive use from ponds. (See the amended mitigation plan received 4/28/09 in 63-32966). The mitigation rights will reduce the number of irrigated acres within the 355 acre ppu by 5.6 acres (the PPU boundary will not change). At the same time, this transfer 74506 changes and adds PODs to 63-2973 & 63-7103. To avoid confusion, approval of the mitigation plan is incorporated into this transfer approval to result in a single document reflecting all the changes. Therefore the transfer/mitigation approval includes 63-365, 63-2973, 63-7103 & the geothermal right 63-8627 that overlaps 63-365.

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.

Condition 046 is applicable because a new well is proposed.