

MEMORANDUM

TO: Transfer No. 73782 and 73844 File

FROM: Angela Grimm

DATE: January 7, 2009 Revised March 23, 2009

RE: Evaluation of Sufficiency of Information Submitted

The transfers propose a split of rights 61-12163 and 61-12165 (Donna Bell Trust) and addition of a new point of diversion on each lot to serve each applicant's portion of the rights. Rights 61-12163 and 61-12165 were split prior to and in order to aid in processing of these transfer applications.

Transfer no. 73782 will provide irrigation water for Michael F. and Nichole C. Crusier's property at Bell Country Estates Lot 8, Blk 1, 2185 NE Bell Country Ct. Transfer no. 73844 will provide irrigation water for Alan D. and Sue L. Roberts' property at Bell Country Estates Lot 9, Blk 1, 2237 NE Bell Country Ct. These lots of Bell Country Estates are generally located west of the intersection of N 18th E and E 27th N (Reservoir Rd.) roads, ¾ of a mile west of Mountain Home Reservoir, approximately 1.5 miles north of Mountain Home.

Summary of Information Submitted

Authority to File: Crusier submitted a warranty deed and deed of trust with transfer no. 73782 documenting ownership of Lot 8, Blk 1 Bell Country Estates. The deed of trust indicates the property is subject to a mortgage, which was confirmed by the applicant. The proposed change to the water rights appurtenant to the property is not likely to impact the land's value; therefore a lien holder letter is not required. Roberts submitted a trustees' deed with transfer no. 73844 documenting ownership of Lot 9, Blk 1 Bell Country Estates.

Water Right Validity: Partial decrees were issued for the parent rights of 61-12163 and 61-12165, 61-2127 and 61-4136 respectively, on 10/26/00. Applicants' submitted an Affidavit of Ralph Robert "Rocky" Towle (representative for current water right owner of record) that states the entire Donna Bell Trust property was irrigated as pasture land until the first subdivision lot was sold in October of 2003. This is within the previous five (5) year consecutive period of the filing of the transfer applications. Based on the information submitted the rights appurtenant to the property proposed for transfer (Lot 8 and Lot 9) are presumed valid.

Injury to Other Water Rights: No injury should occur provided use of the new wells does not interfere with nearby existing wells. As ground water rights, use of the

proposed P/Ds is subject to reasonable pumping level provisions of I. C. § 42-226. According to well log data, the proposed P/Ds are within ½ a mile of and completed in the same aquifer and production zone as the current P/D. The current P/D and the proposed P/Ds are within the Mountain Home GWMA. The nearest spring currently being used as a P/D for an existing right is approximately 0.3 miles away. The production zone for the current P/D and proposed P/Ds is well over 200 ft deep. Withdrawal for the wells is unlikely to impact the spring. It is unlikely the P/D changes proposed will significantly impact the ground water supply for other water rights in this area.

Enlargement of Use: The applicants do not propose to enlarge the use. The transfers will not result in an increase in diversion rate, annual diversion volume or number of acres irrigated. The two water rights of the existing system are both proposed for transfer and are primary irrigation rights.

Local Public Interest: Allowing the applicants to use new P/Ds approximately ½ a mile from the previous ground water P/D for irrigation purposes serves the local public interest.

Beneficial Use/Conservation of Water Resources: The applications propose 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.

Discussion

The water right records proposed for transfer resulted from splits of the original parent rights 61-2127 and 61-4136 (Donna Bell Trust). These two rights were decreed 10/26/00 and the records have been migrated to water allocation records. Allocation records 61-12163 and 61-12165, child rights of 61-2127 and 61-4136, were split prior to and in order to aid in processing of these transfers. Transfer data entry will affect the resultant allocation records of 61-12175 & 61-12178 (Donna Bell Trust remainder portions), 61-12176 & 61-12179 (Cruser portions), and 61-12177 & 61-12177 (Roberts portions).

The two rights of Donna Bell Trust (original parent rights 61-2127 and 61-4136) have been split previously through processing of one transfer (no. 72401 Lot 6 & 7 Crossley) and two changes of ownership (Lot 1 Jausoro and Lot 4 Sullivan/Davis). The deeds associated with the lots within the Bell Country Estates vary significantly with regard to water rights appurtenant to each lot. A letter submitted 12/22/08 by the attorney representing Donna Bell Trust summarizes the amount of water rights sold with each lot. The information in this letter coincides with the deeds the Department has on record for the Bell Country Estates' lots. Calculations of the quantity of water rights appurtenant to each lot were made based on this information. A memo written 6/27/08 and amended on 1/6/09 summarizes these conclusions and includes a table of the water right quantities

appurtenant to each lot, split trees of the two parent rights to date, and revised split trees of the two parent rights including the revised quantities for each right and the splits proposed by these transfers (no. 73782 and no. 73844). Based on the recently acquired information, it appears the changes of ownership previously processed (Lot 1 Jausoro and Lot 4 Sullivan/Davis) issued incorrect quantities to the lot owners. See the calculation memo in transfer file no. 73782 or 73844 for more detail. The change of ownership for Lot 4 Sullivan/Davis was corrected and a letter was sent to the owner summarizing the corrections on 1/15/09. The quantities associated with Lot 1 Jausoro will be corrected via transfer no. 75349 filed 1/8/09 to add a point of diversion to the rights.

The P/U in this transfer has a stockwater right, 61-10619, for 0.04 cfs. This right does not need to be included in the transfers, because the amount of water is incidental and each applicant is allowed use of this much water for stockwater purposes from their domestic wells without water right authorization per I. C. § 42-227 and I. C. § 42-111. Additional water right P/Us and P/Ds within the same PLS legal description as the proposed P/Us and P/Ds of these transfers are the parent rights and subsequent child rights of other lot owners' of the Bell Country Estates. There are no overlapping rights for the applicants' P/Us and P/Ds.

The quantities described on the transfer applications are slightly greater than the quantities determined to be appurtenant to Lot 8 and Lot 9 of Bell Country Estates. I did not require the applicants' to amend the transfer applications, because Department policy allows for approval of a lesser quantity than an applicant applies for. Also, each applicant will be able to object to the orders, should they be issued, approving the transfers.

Construction of the proposed P/D for Crusier was authorized by well construction permit 840175 as a domestic well. The well was drilled for Rolling Stone on 6/09/06, well tag number D0046626. A domestic well construction permit fee of \$75 was collected at that time. The transfer applicant paid the applicable drilling permit fee upgrade of \$125; receipt W035379 on 5/10/07. Construction of the proposed P/D for Roberts was authorized by well construction permit 845433 as a domestic well. The well was drilled for Alan & Sue Roberts on 2/28/07, well tag number D0047777. A domestic well construction permit fee of \$75 was collected at that time. The transfer applicant paid the applicable drilling permit fee upgrade of \$125; receipt W036467 on 5/12/08.

Summary

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