

MEMORANDUM

TO: Transfer No. 73806 File

FROM: Vicky Music

DATE: October 1, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a point of diversion on the Snake River and split applicants' lot from place of use of water right no. 2-10331.

The site is lot 11, block 1 in the Hidden Valley Estates subdivision in Owyhee County. The subdivision is located 4 miles south Marsing and ½ miles east of Hwy 78. The lot is adjacent to the Snake River.

Contact persons are the applicants, Leo and Anita Berger.

Deviations from Transfer Policy Standards

The application was filed originally filed by Larry and Barbara Harpe. Due to deficiencies in the application, I contacted Larry Harpe in June 2008. After multiple communications with Larry Harpe and his realtor, I discovered that the Harpes sold Lot 11 in June 2008. The realtor contacted the new owners, Leo and Anita Berger, who contacted me. They filled out another transfer application on September 4, 2008.

I assumed that the Berger application could supersede the transfer application filed by the Harpes. I have since learned that the Harpes should have withdrawn Transfer # 73806 and the Bergers transfer application would have been assigned a new transfer #. However, due to the difficulty is obtaining information with the Harpes and the number of pending applications (transfers, permits, changes of ownership) by Hidden Valley Estates lot owners that affected by this split, this deviation should not delay the transfer processing.

In Part 1 (B) (6) (b), the applicants answered "yes" to the question re whether the property was subject to mortgages, trusts, etc. I called Leo Berger on September 17, 2008, and read the question to him, and explained that no notarized statement was attached. Mr. Berger stated that he "yesed" when he should have "noed" because the property they own is entirely unencumbered, and NOT subject to the instruments listed on the application.

I received the amended page 2, initialed by him and Anita, on September 22, 2008. This deviation has been corrected and the application can be processed.

Summary of Information Submitted

Authority to File: A deed was submitted for Lot 11 by the applicants with their application. They have the authority to file this transfer.

Water Right Validity: The parent right, 2-2073 was split and its progeny were recommended in the SRBA. The SRBA objection period is over and objections were not filed.

Injury to Other Water Rights: There should be no injury to other rights.

Enlargement of Use: The transfer does not propose an enlargement and none is anticipated.

Local Public Interest: No negative impacts are expected.

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 and Discussion

Transfer # 73922, filed by Greg and Susan Sims May 8, 2008, is also a split from 2-10331. Additionally, there are changes of ownership filed by Phil and Susan Warner (Lot 3) and Val Shap and Yevgeniya Shaposhnik (Lot 1). The Sims and Berger transfers, and the Warner and Shap/Shaposhnik changes of ownership should be processed together so that the parent right 2-10331, be split one time in the database.

No additional information is needed from the applicant nor is additional IDWR analysis required.

Watermaster comments are not applicable and no other comment letters are necessary.

Initial data entry was done at the state office by Don Shaff. Don split the 2-10331 AJ record into five new numbers in anticipation of the new lot owners filing transfers. So, when this transfer was processed at Western region, the record changed was not parent 2-10331, but 2-10349.

The SRBA status is that the parent right was split by numerous transfers and changes in ownership its offspring were claimed, recommended, and are awaiting partial decrees.

The parent right, 2-2073, was for 145 acres irrigation and 2.90 cfs or 0.02 cfs/acre. There were numerous changes of ownership and transfers wherein the duty of water was correctly figured at 0.02 cfs/acres. In 2007, a change of ownership processed at the state office and the remainder right 2-10257 was assumed to be a permissible place of use, 1.98 cfs for 94.1 acres irrigation in a 130-acre place of use. The subsequent change of ownership split the right into 2-10330 and 2-10331 [remainder]. The quantity for 2-10330 was calculated $1.98 \text{ cfs}/130 \text{ acres} = 0.015 \text{ cfs/ac} \times 1.5 \text{ acres [Thompson's lot]} = 0.02 \text{ cfs}$.

Because this method differed from that used for the numerous prior splits and to provide guidance in the future, Steve Lester and I met with Don Shaff and Jeff Harris to determine which method was to be used for future splits, and what could be done about 2-10330. We determined that 0.02 cfs/acre would be used and the acres subtracted from the parent rights – both in the irrigated acres and in the permissible place of use.

The Thompsons did not protest the rate or quantity transferred to them in 63-10330. Therefore, it was decided that no correction would be made to this right.

There are no overlapping rights at existing &/or proposed P/U.

Summary

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 n/a since a new well(s) is not proposed.