

February 28, 2008

Brockway, Engineering
2016 North Washington Street Suite 4
Twin Falls Idaho 83301

Re: Idaho Water Co, Combined Transfers
Alliance Land & Livestock
Brent, Lavel, Marla, and Wendy Stoker

Dear Gentlemen:

Our office is currently reviewing four transfer applications filed by Brockway Engineering. Two transfers are the name of Alliance Land & Livestock, (one for irrigation, and one for stockwater for an existing feedlot). Two are in the name of Brent, Lavel, Marla, and Wendy Stoker, (one for irrigation to stock water and commercial use, and one for irrigation use).

Our review has identified a number of concerns we would like for you to address.

The following issue is pertinent to all four transfers:

- The question concerning the land from which you propose to transfer the water right being subject to any liens, deeds mortgage or contract (Part 1, b) was not answered on any of the transfers in the name of Alliance Land & Livestock and in the name of Stoker. Note that if they are, a notarized statement from the holder of the lien, deed of trust mortgage or contract agreeing to the proposed changes needs to be provided.

The transfers in the names of Brent, Lavel, Marla, & Wendy Stoker.

- For the Stoker Dairy and Stoker Irrigation we need documentation of ownership for the new place of use, and the applicant must provide evidence of current ownership or authority to make the proposed changes of water rights 45-13365 and 45-13368 from Alliance or Sagewood to Stoker.
- The intent of the Stoker irrigation transfer is not entirely clear. The purpose of the transfer, item # 2 on the first page, indicates that perhaps additional rights need to be included or a permissible place of use needs to be created. The application indicates a "new well" will be used in the NENWNW of Section 28, T 11S, R24E, but Department records indicate that an irrigation well that serves as the point of diversion for numerous other irrigation rights already exists at this location.

- Irrigation WRs 45-7045, -7358D, -13857, -13859, -13861, -13863, -13865, -13867, -13869, -13871, and -13900 have portions of their place of use that fall under the proposed POU for the Stoker stockwater application. The irrigation acres that fall under the proposed POU in the stockwater application could be subject to forfeiture for non-use at a future date.

For the Alliance Land & Livestock transfers.

- The department needs information to determine that the applicant has the authority to seek the proposed changes in use of water rights 36-15666, 36-15668, and 36-15670. Our records indicate that Ronald Hulme is the current owner of these rights. There was not any information (deeds, sales contracts, etc.) included with this application showing that Alliance Land & Livestock has any authority to transfer these particular rights. In addition the transfer application does not contain any Part 2's for the above mentioned rights. Also note that rights 36-15666, 36-15668, and 36-15670 have changing diversion rate and diversion volume amounts over time. The Alliance Land & Livestock Irrigation transfer proposes splitting these particular amounts, but there is no information provided with the application indicating how these changing diversion rates and diversion volume amounts over time will be split between Alliance Land & Livestock and Ronald Hulme, nor any agreement from Mr. Hulme agreeing to how these amounts will be split.
- Additionally the map included with the Alliance Land & Livestock irrigation transfer includes 40 acres located in T11S R21E Sec 13 NENE which are not noted in the place of use portion of the application.
- The two transfers in the name of Alliance Land & Livestock have issues relating to system (point of diversion & place of use) overlaps with other rights that are included as parts of the transfers. For example, the Alliance Land & Livestock irrigation transfer proposes two points of diversion located in the SESWSE of Section 7 (T11S, R 22E) and the SESW of Section 8 (T11S, R22E) that will apparently become one system (the wells actually being physically tied together). However, the well in Section 7 is identified as a system with another well (located in the SESE of Section 12, T11S, R21E) on several other rights. The well in Section 8 is identified as part of a separate system with another well (located in the SWNW of Section 8). If a well is being added to a system then the rights involved with that particular system need to be included as part of the transfer to reflect the new point of diversion(s) being added to that particular system and right(s). It also appears that the proposed permissible place of use overlaps at least four other existing places of use that may also need to be incorporated into the Alliance Land & Livestock irrigation transfer. The Alliance Land & Livestock feedlot transfer also proposes adding a well to a system of existing wells, without including all the rights that are involved with that particular existing system of two interconnected wells.

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- The map included with the Alliance Land & Livestock Stockwater transfer includes two additional quarter, quarters (NWNW and NENW) which are not noted in the place of use portion of the application.
- For Alliance Land & Livestock irrigation transfer there is an ownership issue regarding water right 45-13516 in the name of Idaho Supreme Potatoes which overlaps the place of use in Section 8 NESE and SESE.

As currently filed, the Department cannot process these transfer applications, until the issues identified above are addressed. If you have any questions, or if I can be of any further assistance, feel free to contact me at your convenience.

Sincerely,

Benny Walker
Water Resource Agent

cc: Del Kohtz, Idaho Water Company
Dave Carlson, IDWR Eastern Region