

MEMORANDUM

TO: Files 65-3222, 65-8290, 65-3223, 65-3221, 65-3224, and 65-3225

FROM: Angela Grimm

DATE: December 22, 2008

RE: Application(s) for Extension of Time to Avoid Forfeiture

The applications were filed in November of 2007 and propose an extension for five years for the 2008 thru 2012 season. Rights 65-3222, 65-8290 and 65-3223 comprise a system that serves the property on the north side of Scriver Creek. The applications filed for these rights request the extension to allow for completion of a more effective and efficient irrigation delivery system. The new system is in place for a certain amount of acres, but will be completed for all acres within the five year extension period requested. Rights 65-3221, 65-3224, and 65-3225 comprise a system that serves the property on the south side of Scriver Creek. The applications filed for these rights request the extension to allow for time to determine unused portions of the rights associated with certain lots that are not/will not be irrigated to place the rights in the water back and to continue improvements to and formalize the irrigation system.

The site is approximately 4 miles north of Crouch along Scriver Creek just west of the Middle Fork of the Payette River.

Summary of Information Submitted

Authority to File: The applicant is the owner on record for six rights proposed for extension. The applicant has authority to make this filing.

Water Right Validity: An initial decree was issued in the SRBA on 2/13/03 for all rights proposed for extension. A subsequent amended decree was issued in the SRBA on 3/7/03 within the five year period prior to the filing of the applications.

Injury to Other Water Rights: No injury should occur by the proposed nonuse of the already established water rights. These rights have been put to full beneficial use previously. The rights have gone through the adjudication process during which time other water right owners had the opportunity to claim injury when the rights were being put to full beneficial use. No such objections were filed. Allowing a stay of nonuse of the rights would not likely injure existing users.

Enlargement of Use: N/A to these applications.

Local Public Interest: Allowing for the applicant to complete a more efficient water delivery system serves the local public interest.

Beneficial Use/Conservation of Water Resources: N/A to these applications except that temporarily not used water is a form of water resource conservation.

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 extension of time to avoid forfeiture have been migrated in the database from their associated adjudication recommendation records to allocation records. The initial partial decrees for these rights were issued 2/13/03 with amended partial decrees being issued 3/7/03 for all six rights. The partial decrees were issued in the name of Pine Tree Ranch Inc. A subsequent change of ownership was submitted for the rights changing ownership on record of the rights to the current owner and applicant PTR, Inc.

Rights 65-3222, 65-3223, and 65-8290 share a common POD located on the north side of Scriver Creek. Rights 65-3222 and 65-8290 have a common POU. Rights 65-3222, 65-3223, and 65-8290 serve the property authorized for irrigation by PTR, Inc. on the north side of Scriver Creek. The applications for extension to avoid forfeiture were filed for these rights on behalf of PTR, Inc. by John F. Kane president of PTR Inc. These applications were filed 11/29/2007. If the extensions are approved, resumption of use for the protected portions of these water rights should occur the beginning of the 2013 irrigation season, i.e. by 4/1/2013.

Rights 65-3221, 65-3224, and 65-3225 share a common POD located on the south side of Scriver Creek. Each of these three rights has a unique POU on property authorized for irrigation by PTR, Inc. on the south side of Scriver Creek. The applications for extension to avoid forfeiture for these rights were filed on behalf of PTR, Inc. by Kevin Kelley a member of the board of directors of PTR, Inc. These applications were filed 12/6/2007. If the extensions are approved, resumption of use for the protected portions of these water rights should occur by the beginning of the 2013 irrigation season, i.e. by 4/1/2013.

The following table indicates the approximate number of acres currently irrigated within each POU per application remarks and an associated map submitted with the applications, the consequential number of acres to be protected by the extensions of time, and the total number of acres authorized for irrigation within the corresponding POU:

	65-3221	65-3222 & 65-8290	65-3223	65-3224	65-3225
~ Acres Currently Irrigated:	35	67	4	24	34
~ Acres to be Protected from Forfeiture:	33	62	26	19	15
Total Acres Authorized for Irrigation:	68	129	30	43	49

Department staff have the discretion to not post a public notice in the local newspaper, as described in I.C. § 42-203A, for applications involving actions for established water rights should it be determined non-beneficial. If the extensions are approved, and subsequent nonuse of water authorized under these rights occurs, injury to current or future owners of other water rights is not likely to occur. Department staff has determined there will be no benefit to the local public by advertising these applications.

P.T.R. Inc. "north side" rights (65-3222, 65-3223, and 65-8290) are managed by John F. Kane, president of P.T.R. Inc. The correct contact address for Mr. Kane is the address on record for P.T.R. Inc. P.T.R. Inc. "south side" rights (65-3221, 65-3224, and 65-3225) are managed by Kevin Kelly and other members of the board of directors for P.T.R. Inc. The applicant address submitted with the "south side" extensions is P.O. Box 683 Garden Valley, ID 83622. Submittal of this information with these applications does not constitute a change of address for P.T.R. Inc. Mr. Kelly and the board of directors shall be sent a copy of the decisions regarding the "south side" rights as a courtesy. The address of record for P.T.R. Inc. shall remain 33 Spring Gulch Rd Garden Valley, ID 83622.

Summary

Information currently on file for each of the above referenced water rights indicates no previous extensions of time to avoid forfeiture have been issued for these rights. I.C. § 42-222 authorizes the Department to issue one extension of up to 5 years within which to resume the use of a water right if the applicant can show good and sufficient reason for nonuse, the application for extension is filed before the end of the 5 year forfeiture period, and such approval does not "impair" other water rights. The applications for extensions of time to avoid forfeiture for the above referenced rights meet the applicable criteria of I.C. § 42-222 and therefore appear approval.