

MEMORANDUM

TO: Transfer No 73770 File

FROM: Vicky Music

DATE: September 24, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a point of diversion (POD) to water right no. 57-10847. The source is Reynolds Creek and the water currently has to flow through nearly a mile of ditch to get to the easternmost field irrigated under this right. Adding a point of diversion on Reynolds Creek in the proposed location will be a more efficient use of water by reducing significantly the ditch loss associated with the historical diversion.

The site is about 4.7 miles southeast of Givens Hot Springs in rural Owyhee County and is east of and adjacent to Highway 78.

Contact persons are the applicants, Richard and Connie Brandau.

Deviations from Transfer Policy Standards

The application had a couple of deficiencies. Firstly, the application was in Richard's name but signed by Connie. The warranty deed provided with the application lists Richard and Connie as owners. This was corrected by the applicants. The application was amended to include Connie in the applicants' names and Richard signed the application and had his signature notarized.

Secondly, the map included with the application did not show where the POD to be added was located. The applicants submitted another map with the POD denoted. It was then noted that the POD on page 1 was incorrectly entered as "SWSE" rather than "SESE". The applicants initialed and dated an amended page 1.

Another deficiency is that the application item Part 2 (9) asks for a description of other water rights used for the same purpose. The applicants stated there were "none". However, an information search of the IDWR database revealed 2 water rights and an application for permit in the name of the applicants used for the same irrigation purposes as this application for transfer.

Rights 57-257 and 57-11569 for irrigation of 104 acres, include the place of use for 57-10847. Additionally, there is a groundwater permit, 57-11631 which also includes irrigation of this place of use. However, the information relevant to this application item

was readily available in department records and this omission should not prevent the processing of this transfer application.

Lastly, in Part 1(5) the applicants entered the alphabetic quarter rather than the number of acres and left the "total acres" line blank. However, they put the number of acres in the Totals column so these deviations should not prevent the processing of this transfer application. There are no other deviations from transfer policy standards.

Summary of Information Submitted

Authority to File: The applicants own the property and provided a warranty deed that clearly shows they have the authority to file this application for transfer.

Water Right Validity: Right presumed to be valid because the partial decree was issued on 12/5/2002, and the application for transfer was submitted on 4/26/2007, within the five year period.

Injury to Other Water Rights: Water right nos. 57-275 and 57-281 are used on property directly north and across Reynolds Creek of the Brandaus' place of use. These rights have 1887 priority dates and are diverted from Reynolds Creek. Brandaus' right 57-10847 has a 1916 priority date with historical PODs from Reynolds Creek over a mile upstream from the 57-275 and 57-281 POU. Approval of this transfer will actually benefit these senior rights because more water should be available at a greater flow to fill their senior rights.

Also, the PODs for 57-275 and 57-281 are upstream from the proposed additional POD so they will take their water to fill their senior rights before water is diverted from the proposed POD.

Finally, there are no other water users diverting from Reynolds Creek between the applicants' historical and proposed POD. Therefore, approval of this transfer is not expected to cause injury to other water users.

Enlargement of Use: Approval of this will not result in an enlargement of 63-10847 nor does the transfer propose one.

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 by reducing conveyance losses of water to the ditch system.

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

Additional information is not needed from the applicant nor is additional IDWR analysis needed to process this application for transfer.

Watermaster comments were solicited from Water District 57-R. A letter was not sent to the watermaster because applicant, Connie Brandau, is the watermaster. A letter was sent to the district secretary, Jerry Hoagland, instead. He replied that he did not oppose the transfer.

A partial decree was issued for this right on 12/5/2002 by the SRBA Court.

As described above, rights 57-279 and 57-11569 and permit 57-11631 are used on the 10 acres that is the subject of this transfer. However, the overlapping rights are not a problem because the transfer only proposes an additional POD and not additional acres or quantity.

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.

Department policy documents are not clear as to whether Condition R02 or R43 is applicable for this transfer quantity of 0.20 cfs. Because R43 states it is applicable for quantities over 0.20 cfs, I recommend Condition R02 instead of R43.