

MEMORANDUM

TO: Transfer No. 74594 File

FROM: Angela Grimm

DATE: September 5, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to move 12 acres of irrigation within the place of use of adjudication record 67-7321 (James C Amstutz) from BLM land onto land owned by the applicant.

The transfer will affect the place of use generally located near the intersection of Crane and Riley Butte Rds approximately 7 miles east of Crane Creek Reservoir east-southeast of Midvale.

Summary of Information Submitted

Authority to File: The applicant is the water right owner on record. The applicant has authority to change his own right. Washington County taxlot data, as of 2/27/07, confirms the family trust of James C. Amstutz owns the land proposed as the P/U.

Water Right Validity: Right is presumed to be valid based on pending SRBA recommendation. The BLM has objected to the recommendation. However, this transfer proposes a resolution to that objection. If the transfer is approved, the right P/U will no longer include BLM land.

Injury to Other Water Rights: No injury should occur should the change proposed by this transfer be approved. The applicant proposes to retire 12 acres of irrigation on BLM land and move this irrigation to 12 acres of his own property from the same diversion system. The applicant does not propose to increase or decrease use permitted under this right. Injury to other water rights is not likely to occur.

Enlargement of Use: The applicant does not propose to enlarge the use.

Local Public Interest: Allowing the applicant to irrigate his own property versus use of public land for irrigation purposes serves the local public interest.

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.

Discussion

The adjudication record proposed for change is based on licensed right 67-7321. The adjudication recommendation for this right has been objected to; therefore the partial decree has not been issued. This transfer is the proposed resolution to the objection filed by the BLM. The transfer will affect the current adjudication record for the right.

Use of right 67-2378 (James C. Amstutz) is combined with 67-7321, however the changes proposed in this transfer, if approved, will not affect the elements or conditions of use of 67-2378. 67-2378 P/U is a smaller area within the current 67-7321 P/U, but it does not include the 12 acres of BLM land proposed for retirement. There are no additional overlapping rights for the existing or proposed P/U.

The applicant wrote a comment on Part 1 6c. of the application indicating the BLM land will not be nor has it ever been irrigated. I spoke with the applicant regarding this comment on 9/3/08. He stated the BLM land is a steep hillside with sage brush that has never been irrigated. However, the beneficial use field exam for the license of this right along with aerial photos contradicts this statement. The adjudication recommendation, likely based on the license, also contradicts this statement. The information on file regarding this right is sufficient to conclude 12 acres of land has been historically irrigated in the SE SE of Sec 10 T12 R01W (BLM land), by the previous owner if not the applicant. Therefore, the right is valid and the changes proposed are approvable.

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.