

MEMORANDUM

TO: Transfer No. 73934 File

FROM: Angela Grimm

DATE: June 12, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes addition of 108 acres to the place of use for irrigation water rights 2-2100A and 2-7086, both owned by Rubber Band Holdings, LLC.

The transfer will create a PPU on the applicant's property generally located between Wild Horse and Castle Buttes about 5 miles northeast of Oreana in the Henderson Flats area. It will also accomplish a change of ownership for the water rights involved from James F. & Carol J. Kranz to Rubber Band Holdings, LLC.

Summary of Information Submitted

Authority to File: Original transfer applicant previous water right owners, Linda L. and Daniel R. Yanke. Transfer assigned to Rubber Band Holdings, LLC by Yankes. Currently water rights in the name of James F. & Carol J. Kranz. Kranz submitted deed documenting Rubber Band Holdings, LLC ownership of P/U and all appurtenances. A change of ownership will be accomplished based on this documentation thru transfer processing.

Water Right Validity: The rights are valid based on the pending SRBA recommendations. The SRBA objection period is over and objections were not filed.

Injury to Other Water Rights: No injury should occur under this proposal as there will be no increase in withdrawal from the Snake River and irrigation will occur on water right owners' property.

Enlargement of Use: The applicant does not propose to enlarge the use. Diversion rate, volume and acres irrigated will be limited to current amounts for both water rights. The transfer, if approved, will create a PPU for irrigation of the 372 acres within a 477 acre PPU.

Local Public Interest: Allowing applicant to irrigate different portions of their land will allow for crop rotation and possible irrigation of better land to maximize agricultural use which 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 records proposed for change have been recommended without objection in the SRBA. Partial decrees have not been issued as of the date of this memo. Data entry for this transfer will act on the adjudication recommendation records of 2-2100 A and 2-7086. Both records were based on individual water rights licensed prior to the adjudication. The two water rights were combined during the adjudication process.

Department records indicate there are no additional overlapping water rights for the P/Ds for these two water rights. P/U overlap analysis indicates there are no overlapping water rights for the SW and SE of Sec 35, T03S, R01E and the SW of Sec 36, T03S, R01E. There are several water rights owned by Nettleton in the SE of Sec 36, T03S, R01E as well as additional water rights owned by the transfer applicant. P/U information indicates Nettleton's Snake River water right (2-2100B) covers 2 acres in the NE SE of Sec 36 and 23 acres in the SE SE of Sec 36. Currently, water rights 2-2100A and 2-7086 cover 1 acre in the NE SE of Sec 36 and 8 acres in the SE SE. The transfer application seeks to increase the P/U for these two water rights to 15 acres in the NE SE and 10 acres in the SE SE of Sec 36. Owyhee Co. tax lot data and deed information indicates Rubber Band Holdings LLC owns approximately 15 acres in the NE SE and 10 acres in the SE SE of Sec 36. This data indicates the Nettleton Snake River water right P/U does not overlap the current nor proposed place of use for 2-2100A and 2-7086. Therefore, there are no overlapping water rights for the P/Ds nor P/U of the two rights proposed for transfer.

The original transfer applicants were the previous owners of water rights 2-2100A and 2-7086, Linda L. and Daniel R. Yanke. On 5/16/08, a letter was sent to the Yankes requesting the transfer application be assigned to the current water right owners on record, Carol J. and James W. Kranz. On 5/19/08, I received a call from James W. Kranz indicating he wishes the name on record for the water rights to be Rubber Band Holdings, LLC. The notarized letter assigning the transfer application was submitted accordingly, naming Rubber Band Holdings, LLC the entity to which the transfer application is assigned. On 6/4/08, James W. Kranz submitted a Quitclaim Deed documenting ownership of the water rights 2-2100A and 2-7086 in the name of Rubber Band Holdings, LLC. This change of ownership will be accomplished through this transfer, should it be approved.

The original applicant submitted an Application for Permit with the transfer application for additional Snake River water to cover the additional acres brought into production when pivots were installed to irrigate the proposed P/U. This application was not

approved due to the fact that it proposed diversion of water for irrigation from the Snake River between Milner Dam and Swan Falls Dam, which was deemed not in the public interest as stated in Water Appropriate Rule 45.03.k. A letter was sent 6/12/08 to the current transfer applicant, Rubber Band Holdings LLC (James W. and Carol J. Kranz), requesting submittal of information regarding how current irrigation will be limited to 372 acres or what other form of water right authorization does the applicant plan to acquire to irrigate the extra acreage. With no other source of additional water for irrigation, this transfer, if approved, will create a permissible place of use for irrigation of the currently authorized 372 acres.

The transfer application proposed an increase from 372 acres to 480 acres. Government lot and ArcView data (PLS and Owyhee Co. taxlot) indicates only 477 of the 480 proposed are legal acres. The transfer approval has been drafted accordingly, for irrigation of 372 acres within a 477 acre PPU.

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.