

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: April 30, 2008

RE: Transfers 73766 (Blandford) & 73781 (Cohen-Mueller), Mellin Right Splits

These transfer applications are two of many completed or pending splits regarding the Mellin right, originally 63-7194. Changes to portions of that right were previously approved for other transfers and/or for mitigation to cover other approvals (new permits).

The Mellin situation is similar to prior marketing of primary ground water irrigation rights whereby portions are moved to a variety of other locations throughout Basin 63. Some of those experiences included the "Ham rights" and the "Post right." The department has considerable experience with this phenomenon in Basin 63 over many years and has not encountered any significant problems related to resulting department approvals.

An issue needing to be resolved arose in parallel processing of Transfer Applications 73766 and 73781. Considerable discussion ensued between several people at the State Office and Western Region regarding the issue of separate aquifers for the Mellin right versus proposed new uses (ground water tributary to Snake River, ground water tributary to Boise River, local injury vs. regional impacts, etc.).

Regional Manager John Westra and I met with Water Allocation Bureau Chief Jeff Peppersack and Water Permits Section Manager Shelley Keen to resolve the issues today (see attached notes used for discussion at the meeting). The consensus was that, absent obvious limiting factors, (ground water management area, shallow ground water near the Boise River upstream from Star, prior protest/complaint history etc.), we should presume an existing right and a proposed new minor use would involve the same aquifer, which we can call the "regional aquifer" for purposes of this discussion. Absent any of these obvious flags and lacking any protests from legal notices, we can conclude impacts, if any, would be more regional rather than local. Injury would not be expected under those conditions, and more creative conditions of approval to protect against possible injury would not be needed (standard conditions would suffice).

We also agreed the regional office analysis should briefly but more affirmatively state this in a review memo. This would help other staff know these issues had been considered and evaluated.

The regional reviewer for these two transfer applications will update the review memos to document this thinking. Parallel processing will continue without the complication of "separate aquifers," treating the Mellin well and other wells proposed for minor uses as conduits from the same "regional aquifer."

Proposals for larger uses warrant more detailed analysis.

BASIN 63 REGIONAL AQUIFER

- JZ 4/30/08

Transfers &/or Mitigation Plans from existing primary irrigation wells to cover irrigation &/or other consumptive uses elsewhere in basin.

Existing restrictions apply

- Boise Front GWMA
- SE Boise GWMA
- Shallow ground water tributary to Boise River upstream from Star – generally obvious cases (conjunctive management from 1980's)

Possible restrictions apply – case specific

- Transfer from existing well below Star to shallow well above Star – “grandfather” older proposals unless obvious issue (proximity to river/creek, water depth etc.)?
- Others?

Precedents early 1990's to now, multiple transfers &/or mitigation plans

- Ham rights 63-8796 & 63-9972 northeast of Meridian to multiple locations Ada & Canyon Counties, no problems (“regional aquifer”)
- Post right 63-9179C from Sand Hollow north of I84 to multiple locations Ada & Canyon Counties, no problems (“regional aquifer”)

Mellin multiple transfers &/or mitigation approvals

- Mellin well between Kuna & Melba about 10 miles from Snake River, mid-deep aquifer (“regional aquifer”)
- Some approvals already done without issues – LDS Church south of Caldwell 2006, Choutchourrou north of Sand Hollow 2008 etc.

- Numerous others pending, 2 examples

Blandford T73766 Cynthia & Pam, no issues

Cohen-Mueller T73781 Cynthia & Aaron, issue raised about source/injury

Similar, same area north of river below Star, parallel review by SO, same time, different answers

Bailey transfer, separate aquifer issues applicable

From traditional irrigation well

To shallow ground water pond near Boise River

Both around Middleton below Star

Advance priority to irrigate from pond (injury)

+ remains subject to
UM 63 control