

MEMORANDUM

TO: Transfer No. 73761 File

FROM: Angela Grimm

DATE: March 17, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes a new point of diversion to supply water for irrigation under adjudication right 63-32088 (Judith R. Beck) resulting from the split of adjudication record 63-31779 into adjudication records 63-32087 (Estate of Dan W Clarke) and 63-32088.

The transfer will provide irrigation water for Judith R. Beck's property at Benchmark Estates Subdivision Lot 8 Blk 1, 26195 Moonglow Dr. generally located off Galloway Rd just west of Middleton Rd and Galloway Rd intersection in Middleton.

Summary of Information Submitted

Authority to File: The applicant was the owner of the right at the time the transfer was filed. Since filing of the transfer, approval of a change of ownership changed the owner from the applicant to Judith R. Beck. Ownership documentation in adjudication file records confirms Judith R. Beck as trustee for The Beck Family Trust and current owner of this right has authority to file this transfer application.

Water Right Validity: The right is presumed to be valid based on the pending SRBA recommendation. The SRBA objection period is over and objections were not filed.

Injury to Other Water Rights: No injury should occur provided use of this well does not interfere with nearby existing wells. According to well log data on file with the Department and the transfer application, the proposed P/D, drilled for Judith R. Beck 7/21/05, is within 0.75 miles of and completed in the same aquifer and production zone as the original P/D under right 63-9069E drilled for John W. Clark 4/26/78. It is unlikely this change to the POD will significantly impact the ground water supply for other water rights in this area.

Enlargement of Use: The applicant does not propose to enlarge the use. Standards call for the installation of measuring devices when the transfer authorizes one or more changes to the diversion or use of ground water as this application does.

Local Public Interest: Allowing the owner to use a new P/D approximately 0.5 mile from previous ground water P/D in any area with no known ground water supply concerns for agricultural/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 resulted from the split of adjudication record 63-31779 (Estate of Dan W. Clarke) into this right, 63-32088 (Judith R. Beck), and 63-32087 (Estate of Dan W. Clarke). The parent right for this series of Estate of Dan W. Clarke splits is 63-9069E. Other pending actions proposing additional splits of this parent right do not affect this application. This application does not propose a split; it proposes a new point of diversion for the whole right 63-32088.

The applicant name does not match the current owner on record of the subject right. At the time the transfer application was received, 5/20/2005, the owner on record was the applicant, The Beck Family Trust with Judith R. Beck as trustee. A change of ownership filed 10/12/2006 proposed changing the ownership of this right from The Beck Family Trust to Judith R. Beck. Proper ownership documentation was submitted at that time to allow for processing and approval of the change of ownership. A letter submitted by the applicant, received 2/8/08, confirms it is not the intent of this transfer to revert ownership of this right back to The Beck Family Trust.

The adjudication recommendation for this right is conditioned as such that the owner must use all surface water appurtenant to the property before diverting ground water. Correspondence received from the Black Canyon Irrigation District along with overlap analysis confirms there are no existing shares or surface water rights appurtenant to the place of use. This ground water right is a primary irrigation right without any overlap. No where on the transfer application did the applicant note if there are any other water rights for the same purposes, item A9 on the current version (10/07) of the transfer application. At the time the application was completed, the most current version of the form available was the 12/02 version. It appears this information was not requested on this version of the form. Overlap analysis conducted based on internal research indicates there are no overlapping rights at the place of use.

The subdivision name, block and lot numbers are not listed in the remarks section of the application as standards call for. The tax lot data, Quitclaim deed on file for the change of ownership from The Beck Family Trust to Judith R. Beck, and well log all document the subdivision information for this property. The data available to the Department

submitted by the owner through other processes and others should fulfill the information requirement.

A copy of the warranty deed was not included with the transfer application as application item A2 requests. The transfer application does not propose a change in ownership. The ownership information on file for 63-32088 in adjudication records provides sufficient documentation proving Judith R. Beck owns the property.

Construction of the proposed point of diversion was authorized by well construction permit 833363 after the application for transfer was received under water right 63-32088. The appropriate \$200.00 well construction fee for a well requiring a water right was collected at that time. The well was drilled for Judith R. Beck July 21, 2005. Tag number D0039503 was assigned to this well. Use of the proposed point of diversion prior to transfer approval was authorized by way of a letter written September 7, 2005 by John Westra, Western Regional Manager.

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.