

## **MEMORANDUM**

TO: FILE  
FROM: DANIEL A. NELSON  
DATE: 2/20/2008

**RE: TUSCANY HILLS, LLC TRANSFER NUMBER 73906**

The transfer proposes to change the place of use and add 3 points of diversion. The place of use will remain in the same general location ¼ mile north of West Lewis Lane and Pump Road in Sections 10 and 11 of T2N R3W, Canyon County. The two existing wells will remain on the water rights. One of the wells is located on the North Side of the Mora Canal in the NESE S11 and the other existing well is located in the northeast corner of the NWSW S11. The three new wells will be located along the southern border of the property in the NWNSW S11 approximately ¼ mile north of West Lewis Lane.

Terry Scanlan of SPF Water Engineering is the Consultant.

### **AUTHORITY TO FILE:**

The applicant supplied a warranty deed to prove ownership of the property. Tax lot data available to the Department confirms this ownership information.

### **WATER RIGHT VALIDITY:**

Sandy Egbert has recommended this right to the Snake River Basin Adjudication (SRBA) court, and no objections were received on that recommendation. Several transfers have been filed on these right over that past 10 to 12 years all claiming validity of the water rights. Therefore the validity of the right should not be an issue.

### **INJURY TO OTHER WATER RIGHTS:**

This right has not been used or in a set-aside program for several years. There is concern that re-instituting these rights could cause some harm to water users that have developed during the period since these rights were last used, however, this area has been under a moratorium and processing hold since the early 1990's. Therefore there should be very little new development that could possibly be harmed by re-instituting the use of these rights. Therefore, no injury is anticipated.

### **ENLARGEMENT OF USE:**

This application requests to change the point of diversion and re-adjust the place of use. No enlargement is proposed.

### **LOCAL PUBLIC INTEREST:**

Any changes in the use of this ground will need to go through the county planning and zoning process, so no public interest issues are anticipated.

**BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:**

Applicant proposed beneficial use consistent with department standards for the area.

**Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of the application.**

**NARATIVE**

The rights for this transfer have been involved in several transfers over the last few years. Please review the documentation in transfer 68832 for more information. This transfer requests to simply add 3 points of diversion and keep the two existing points of diversion for a total of 5 wells. The place of use will be adjusted slightly to better describe the place of use, and to add 3.5 acres in the SESE S10 T2N R3W. These 3.5 acres appear to be a road easement or access to the land in question.

There are no significant overlapping water rights for the place of use, but there are several water rights that still use the original well. Therefore, condition X36 must be maintained on this transfer. There may be some overlap of the 3.5-acres, however, it appears from the shape files created in the database that the 3.5 acres are in-between the existing water rights at that location.

The Tuscany Hills LLC was dissolved in January of 2008 according to the Secretary of State web page. I contacted their consultant, and found out that the paperwork for reinstatement was sent to the wrong address. This was corrected on February 27, 2008. Therefore, ownership issues have been resolved.

**CONDITIONS AND SUGGESTIONS**

Unless this transfer is protested, this proposal seems to be approvable with the inclusion of the conditions on the draft approval.