

Comment Report

Application ID 72541

1. jstanton 1/19/2006 4:16:58 PM Special Administration Area Notes

Comment: Special Administration Areas : Eastern Snake Plain Aquifer

Exempt: N

Reason:

Doc Attached:

Explanation:

Special Administration Areas : Magic Valley GW District

Exempt: N

Reason:

Doc Attached:

Explanation:

2. jstanton 1/19/2006 4:17:29 PM Additional Information Notes

Comment: Reviewed by Adjudication Staff: N/A

Mitigation Plan or acceptance form: N/A

Municipal Rights Anticipated Horizon Information: N/A

3. jstanton 1/19/2006 Comment/Analysis

Comment: This application proposes to dry up 54 acres of pasture to provide water for a new dairy to be built about 1 1/2 miles SE of the present place of use. Two new wells will be drilled to provide water for the dairy. The dairy site is presently irrigated with water from the A & B Irrigation District. The transfer appears to be approvable with standard conditions.

Authority To File: The applicant has provided deeds covering both the dairy site and the water right being transferred. The water has been purchased from the owners of record.

Water Right Validity: The rights were decreed less than 5 years ago, so forfeiture is not an issue.

Injury To Other Rights: The existing and new wells are adjacent grid cells, so no accurate analysis is possible. The number of acres being dried up is based on the consumptive use volumes for pasture at Paul (2.82 afa/acre), so appears to be adequate for the proposed use.

Enlargement of Use: None requested. The right being transferred is a portion of 36-15710, which has a flow-rate limitation with 36-15708. The applicants chose to transfer at the decreed rate of 1 inch per acre for the later right, rather than at whatever lesser amount is needed to run the dairy or to provide the needed volume,

whatever lesser amount is needed to run the dairy or to provide the needed volume, which is their choice. The remainder of the 2 rights on the Carney property will be conditioned to avoid any expansions of historic use. Carney is keeping all of the early right (36-15708) and whatever is left of the later right (36-15710/16395). Carney refused to sell any of the early right to Horizon, so they agreed to purchase only the later right; this is hard to understand, considering the possibility of the later right being shut off in a water call, but that should not prevent the transfer from being approved. Daren at Brockways said they are trying to purchase earlier rights to prevent a shutdown, but have not yet accomplished this. I would expect to see another transfer relating to this dairy fairly soon. Some of the decreed pou is being dried up, so partial unstacking of the appurtenant water rights should not cause an expansion of diversion volume.

Although on paper this right has 1.08 cfs available, in reality there is only 0.75 cfs of new water that was developed under the parent right. Splitting the new water proportionally among Carney Farms & Horizon Dairy leaves 0.43 cfs of new water for Carney. Because this water will now be split between 2 separate water systems, I think we need to reduce the available diversion right for Horizon to 0.75 cfs in order to avoid any possibility of exceeding the diversion-rate limit as decreed in the SRBA; I have discussed this with Pam & Cindy, and they both agree. The sale documents between Carney & Horizon did not specify a diversion rate, so the proposed rate reduction should not cause any legal problems. The volume being transferred will not be affected by the rate reduction.

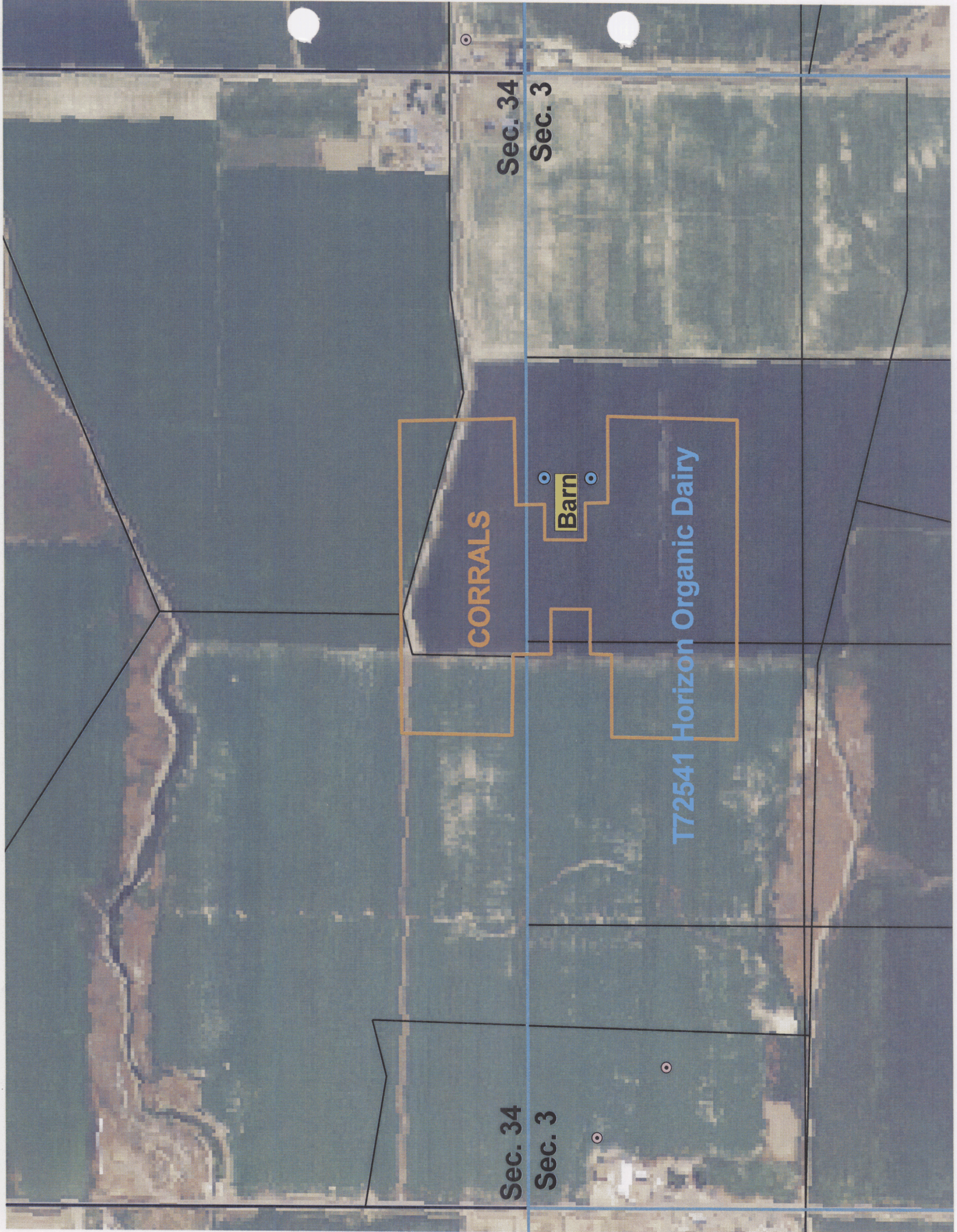
Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified. Any wastewater in excess of their lagoon storage will be land applied as needed to meet EPA rules, thereby reducing the amount of A & B water needed for the surrounding property (the dairy is in the middle of a larger parcel that they bought).

Review of the application finds that there is no clear inconsistency with criteria set forth in Sec. 42-222 I. C. preventing processing. At least prior to advertising, no other issues have been identified that would require further review or submittal of additional data by the applicant.

4. jstanton 1/19/2006 Legal Notice Remarks

Comment: This application proposes to dry up 54 acres of pasture to provide water for a new dairy to be built about 1 1/2 miles SE of the present place of use. Two new wells will be drilled to provide water for the dairy. The existing and new wells are in adjacent cells in the ESPA Model, so no accurate analysis of the proposed change can be made; the effects are presumed to be minimal, however, and no mitigation plan is proposed. The dairy will be located 10 miles west and 5 miles north of Paul city center in Jerome County.



Sec. 34

Sec. 3

Sec. 34

Sec. 3

CORRALS

Barn

T72541 Horizon Organic Dairy