

MEMORANDUM

TO: Transfer No. 71722 File

FROM: Steve Lester 

DATE: January 30, 2006

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a check-dam on Elk Creek to enhance shallow ground water diverted under this right. This will codify the same temporary change authorized by IDWR on 8/7/2001 (drought emergency).

Contact person for the applicant is attorney Bryce Farris. Normally the file would include a written document noting the attorney representing the applicant. However, the attorney in this case established that connection with his visits to the Western Region office, augmented by several telephone calls in this regard. It is acceptable in this case to recognize that he represents the applicant for Transfer 71722.

Deviations from Transfer Policy Standards

The application does not propose deviations from standard transfer policy. However, the application provides an opportunity to codify that ground water authorized under this right is tributary to Elk Creek (ideally would have been included in SRBA process). Note transfer database comment for hydraulic connection between surface and ground water sources.

Summary of Information Submitted

Authority to File: The City owns the municipal right as indicated by the water right record.

Water Right Validity: The right is presumed to be valid because the partial decree was issued on 4/24/2003. At the time the application was originally filed in June 2002, validity was evidenced by the SRBA recommendation record.

Injury to Other Water Rights: Injury can be prevented with conditions of approval.

Enlargement of Use: Enlargement can be prevented with conditions of approval.

Local Public Interest: The proposal serves the local public interest.

Beneficial Use/Conservation of Water Resources: The transfer proposes a beneficial use 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

Data entry affected the correct partial decree record.

Watermaster comments will be obtained during the advertising period. IDEQ comments will be sought at the same time. Other additional information is not needed.

New well construction is not proposed and should not be authorized under the transfer.

Decreed right 63-2627 is the only viable right held by the City. The SRBA disallowed Statutory Claim 63-4073. Statutory Claim 63-4712 was not claimed in the SRBA, probably due to dubious file information and to the fact that ground water was implicitly recognized in 63-2627. No other records are identified for the City.

The transfer application allows clarification of the source to include ground water tributary to Elk Creek (see review memo attachment - 63-15422 was renumbered to 63-2627). The exam documented two ground water diversions to be recognized in transfer processing. The hydraulic connection between shallow ground water and creeks near Idaho City is documented by the 10/28/2004 review memo in Transfer 71023 for 63-30398, a similar situation in Idaho City for the community athletic field near Mores Creek.

The City obtained temporary approval for the check-dam during the 2001 irrigation season under drought emergency conditions. IDWR advised the City to file a transfer or make other arrangements for a more permanent solution for succeeding years. The transfer application was filed in June 2002 in response to that advice. Apparently the City was not successful in its efforts to find another solution to meet its municipal water obligations.

Injury and enlargement are concerns in this case. Watermaster control can address injury issues. Immediate installment of controllable, measurable diversion works is not necessary since this portion of the water district remains unregulated.

Some might argue that enlargement would occur by adding storage via the check-dam. The dam would act to withhold natural flow and allow it to seep into the adjacent shallow aquifer. The City would divert water not normally available under natural flow conditions.

There is some merit to that argument, although I do not find it persuasive. The amount of water stored under that view would probably be fairly minor compared to annual runoff from Elk Creek, resulting in minimal impact to downstream interests. Applying the 24-hour fill rule of thumb to the diversion rate results in about 0.7 af/day stored as a detail of the system ($0.36 \times 1.9835 = .714$ af/day or about 233,000 gallons/day). Possible transfer approval could be conditioned to limit impoundment of water on the creek to 0.71 af. Future measurement and reporting could be required to track this limit if necessary. Watermaster control could also be used to force releases of water from the check-dam pool if necessary. For example, a staff gauge could be installed in the storage pool. A limiting mark could indicate a 0.71 af level in the pool. A watermaster could require release of any storage above that limiting mark.

Enlargement can be prevented with adequate conditions of approval and management tools. Allow the City the benefit of the doubt in this case to serve the local public interest.

The check-dam has most likely remained in place since 2001. Complaints about this likely fact have not been received by IDWR. Although this assumed situation does not excuse anything, it provides further support against injury and enlargement concerns.

The municipal diversion system is regulated under IDEQ public water supply #4080025. IDEQ does not have well construction concerns for the 30 ft. wells. That agency reported that adding a check-dam on Elk Creek would probably help address turbidity concerns resulting from new water quality standards. (Brandon Lowder, IDEQ 10/19/05 telephone conversation).

Summary

The application appears approvable assuming protests are not filed and/or other information does not contradict the above analysis. See the draft approval for details.

Condition 046 n/a since well construction is not proposed.

replaced w/ 63-2627

T. 71722
REVIEW MEMO
ATTACHMENT -

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGION ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s). A63-15422

1. No Change NAME IS SAME ✓

NEW OWNER: _____

No Change ADDRESS

NEW ADDRESS: _____

2. No Change - DATE OF PRIORITY: Completed evidence submitted
Incomplete - Claimant should be asked during the exam when was water first
used and submit proof of date of priority.

Priority date, per claimant, is: 12/17/1945
(If the priority date, based on your exam, seems questionable, explain below.)

Claimed date reflects original priority date of license 63-2627.

Licensed priority was advanced a week due to paperwork
problems, leading to filing of this B/U claim to retain

3. No Change — SAME SOURCE ✓
Source is different than that claimed:

earlier priority
date.

Source found: _____

4. No Change — POINT OF DIVERSION
Point of diversion is different than the claim and/or new P/D's:

Township 6N Range 5E Section 26 1/4 NW 1/4 SE 1/4 NW
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

5. No Change - DESCRIPTION OF DIVERTING WORKS
Incomplete description, list below:

→ (2) 30' "wells" sunk in creek bed (Elk Creek). 7.5 HP
pump through filtration system to 20,000 gal. storage
tank. Relifted w/ (2) 15 HP pump to 200,000 gal storage tank
on hillside above town. Gravity flow to POV.

2 g.w. p/ls

6. No Change - WATER USES
Different uses, (list uses found):

*changed to Municipal
use for Idaho City.
accomplished
change*

Use Dom From 1/1 To 12/31 Amount .36 CFS _____ AFA _____
Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____
Use _____ From _____ To _____ Amount _____ CFS _____ AFA _____

7. No Change - TOTAL VOLUME

Incomplete on claim, the total is, Amount _____ CFS _____ AFA _____

Changes found, the new total is, Amount _____ CFS _____ AFA _____

8. No Change - NON-IRRIGATION USES:

Changes Exam found:

Domestic # of homes: _____ Stock # _____ List types: _____

Additional comments: Place of use is service area for City of Idaho City

9. No Change — PLACE OF USE: (If changed, list below.)

Use: _____ Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____
Use: _____ Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____
Use: _____ Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____
Use: _____ Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____

Remarks: (Comments pertinent to field examination) See additional attachment

Place of use is service area of the City of Idaho City

SYSTEM DIAGRAM INCLUDED

NA

Shown on GIS Layout

CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: 11/07/2001

FIELD EXAMINER:

MARIA MINICUCCI

Print Name

[Signature]
Signature

SRBA Claim Number A63-15422, -4073 Date of Photos 11/07/2001

Photographer M. Nivicecci Legal Description T6NRSE26 SENW

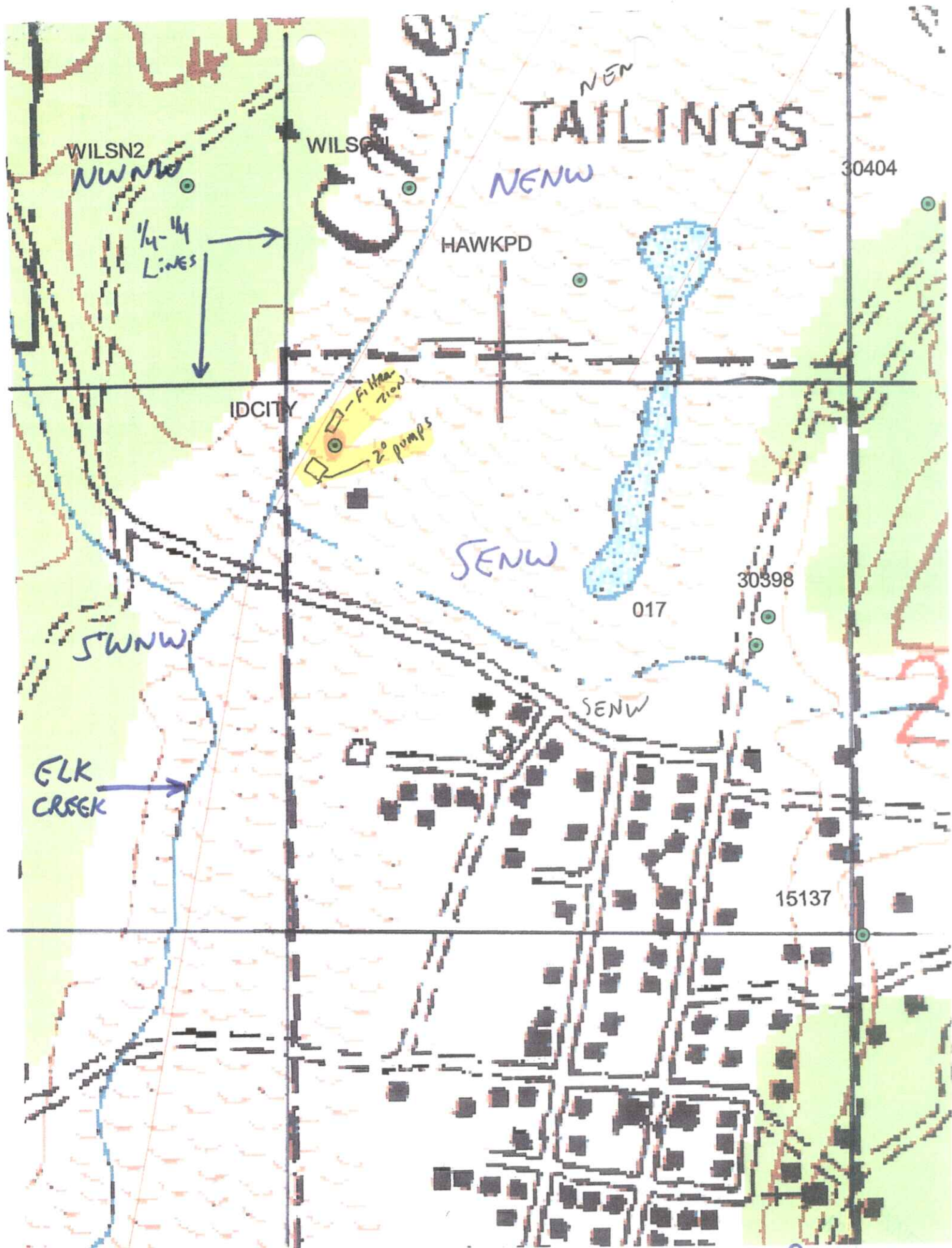
① Dam in Elk Creek,
located west of
points of
diversion



② Wells located
next to Elk Creek.

Each well has a
7.5 HP pump. Water
is piped to filtration
system via common
pipe, then to small
holding tank. Relifted
to 200,000 gal tank
above town, gravity
to users.





NEN
TAILINGS

30404

WILSON2
NW NW

WILSON

NENW

1/4-1/4
Lines

HAWKPD

IDCITY

Filtration
20 pumps

SENW

30598

017

SWNW

SENW

ELK
CREEK

15137

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