

MEMORANDUM

TO: Transfer No. 72104

FROM: Lori Graves

DATE: 7/5/2005

RE: Evaluation of Sufficiency of Information Submitted

The purpose of the transfer is to retire 38 acres from irrigation and provide .83 cfs for aesthetic use to mitigate the consumptive use resulting from excavation of 16 ponds proposed on accompanying application for permit no. 63-32139. The transfer also proposes to re-distribute irrigated acres to account for subdivision development.

Please note that a water bank application is also attached to the transfer to submit 85.3 acres of right 63-194 to the bank because they will be converted to impervious surface as a result of the subdivision development.

The site is also known as Two Rivers Subdivision located on Eagle Island between the north and south channels of the Boise River, just west of Eagle Rd.

Contact person for the applicant is Dan Torfin with TR Company, LLC.

Authority to File: Please see correspondence dated 2/15/2005 from Dan Torfin explaining the sequence of title for the proposed p/u. The water right is currently in the name of BW Inc. The attached warranty deeds indicate the p/u was deeded to TR Company LLC. Current tax records show many, many different owners for the p/u, which has been subdivided. Rather than providing a copy of every deed within p/u aka Two Rivers Subdivision, Pioneer Title submitted a letter dated 2/8/2005 indicating that TR Company LLC included language on all the property deeds, appurtenant to Two Rivers Subdivision, reserving the associated water rights. Pioneer Title also provided a sample of one of the deeds with said language.

Although the current right holder of record is BW Inc, who is also the transfer applicant, documentation submitted with the transfer application indicates that TR Company LLC was the property owner at the time the land was subdivided and had the authority to withhold the water rights from the sale of the subdivision lots. As a result, the transfer approval will show TR Company LLC as the water right owner and BW Inc as the transfer applicant. Please note that Dennis Baker is President of both TR Company LLC (IDSOS #W11252) and BW Inc.(IDSOS #C135148). Associated application for permit no. 63-32139 was filed in the name of TR Company LLC.

Water Right Validity: Right presumed to be valid based on the pending SRBA recommendation.

Injury to Other Water Rights: None anticipated.

Enlargement of Use: Applicants stated that alfalfa was one of the historical crops grown. The change in nature of use was based on a "1:1 pond swap", where 1 acre of retired irrigation mitigates 1 acre covered with pond. This is acceptable per department standards.

Local Public Interest: No negative impacts are anticipated.

Beneficial Use/Conservation of Water Resources: Applicants propose b.u. 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 &/or Analysis: The original decree listed the p/d in Lt 11 SWSW S18. The SRBA recommendation clarified the p/d to the SWSW S16 as listed on the transfer application. The original decree also included .44 cfs for ditch loss. Based on a ditch loss analysis, the SRBA included the extra flow rate in their recommendation.

Applicants listed 38.1 acres pond area and 114.6 acres remaining irrigation. The numbers actually calculate to 38 acres pond area and 114.7 acres remaining irrigation. These minor changes were made to the record in the data base and reflected of the draft approval.

Volume was not recommended in the SRBA. 4.5 afa/ac was used for irrigation volume and 2.95 afa/ac was used for aesthetic volume (based on Allen Brockway Boise site for alfalfa).

Applicants designated the water right amounts to be submitted to the water bank on the transfer application. These amounts were added back to the remaining irrigation amounts on the draft transfer approval. Rather than 114.7 acres remaining irrigation, the draft transfer approval lists 200 acres, which includes the 85.3 acres to be submitted to the water bank. The water bank amounts can be addressed in the water right conditions when the draft transfer is approved.

Overlapping rights are for separate systems and acres. The only significant overlap is Boise River water from the Mace-Catlin Ditch Co., rights 63-132 and 63-133. Applicants stated that they own 100 shares (enough for 100 acres irrigation) from the Ditch Co. Rather than including the Ditch Co. rights on the transfer, applicants submitted a letter dated 4/12/2005, stating that the Ditch Co. water will not be delivered to the aesthetic ponds or waterway within Two Rivers Subdivision. Water from the Ditch Co. will be used only for irrigation within the subdivision. This is doable because, as proposed, 114.7 acres of irrigation will remain within the subdivision.

As discussed above, TR Company reserved the water rights associated with the subdivided property with specific language placed on all the associated deeds. They reserved rights in Eagle Island Water Users Association, Thomas Aiken Ditch Co., and Mace-Catlin Ditch Co. Reference to Thomas Aiken Ditch Co. is for right 63-194 (originally decreed in the name of Thomas Aiken) and reference to Mace-Catlin Ditch Co. is for the 100 shares, rights 63-132 & 63-133 discussed above. Eagle Island Water Users Association involves water management, not any additional rights.

\$1,190 total fees were received with the original transfer package broken down as follows: \$370 for the application for permit, \$450 for the application for transfer, and 370 for the water bank application. No fee was required for the water bank application. A refund request for \$370 was submitted 6/21/2005 to Debbie Allen.

Watermaster comments have been requested.

Assuming protests are not filed and/or other information does not contradict the above analysis, and assuming it is determined the application should be approved, the conditions listed on the draft approval should be applied.

12/21/2005 Amendment: Per current standards, applicants amended the first page of the transfer to describe diversion to storage and aesthetic storage uses rather than just aesthetic use. To account for rounding factors, flow rate for irrigation use was amended to 2.51 cfs rather than 2.50 cfs, total acres for aesthetic were amended to 38 rather than 38.1 and total acres for irrigation were amended to 114.7 rather than 114.6. These minor adjustments allow the proposed amounts to correctly add up to the original amounts recommended for decree.