

MEMORANDUM

TO: Transfer No. 72128

FROM: Sharla

DATE: July 26, 2005

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes a change in the point of diversion and place of use for two water rights that the city has agreed to purchase from Idaho Water Co. (with Del Kohtz as the broker for this project). ~~The nature of use and season of use under these two rights will also be changed via the transfer since the rights are currently irrigation rights.~~ Four other existing rights owned by the city are included in the transfer for purposes of adding three wells (known as Legacy Park Well, Shop Well and WWTP Well) to their combined system.

The place of use under all the rights is within the service area of the municipality and the majority of the points of diversion are within the boundaries of the service area or just outside the boundaries. The exceptions are wells 11 and 13 which are near the municipal airport and the WWTP well located close to the city's sewage disposal site.

Brockway Engineering is the consultant firm retained by the city for processing this transfer. They will be added to the applicant tab as the representative. Del Kohtz will be added as the representative for the two irrigation rights in data entry for all correspondence.

Summary of Information Submitted

Authority to File: The City of Mountain Home is the owner of record for four of the six rights listed in the transfer. The transfer application has been signed by the mayor. The documentation submitted with the application for ownership of the two rights consists of 1)an Option Agreement for Purchase and Sale of Real Estate between the Warkentin's and Delbert Kohtz and 2)an Agreement for Sale of Water Rights between Idaho Water Co. (Del Kohtz is the member of this organization serving as the broker for this transaction) and the city. The latter agreement specifies that the sale and purchase of the two water rights shall close no later than 30 days after the approval of the transfer. I contacted Pam Skaggs and she talked to Jeff about this ownership question. Jeff said that we can change the ownership to the city because the contracts that are in place assume that the change in ownership will occur and if for some reason the sale doesn't go through, we can rescind the transfer as a whole. This has been done for some dairy transfers. Therefore, the ownership has been changed to the city.

Water Right Validity: All of the rights are presumed to be valid as the partial decrees were issued in October of 2000 or April of 2001, within the past five year period.

Injury to Other Water Rights: None anticipated. The 450 acres currently irrigated by rights 61-2210 and 61-2167 will no longer be irrigated.

Enlargement of Use: ~~Diversion rates will remain as decreed on all the rights and volume limitations as decreed on the two irrigation rights will be adjusted per the information submitted by the consultant documenting the historical consumptive use (see attached evaluation). In the cover letter that was received with the consumptive use information, the hydrologist suggests that full volume be transferred rather than limiting to the historical consumptive use. Standard procedures for processing transfers which change the nature of use from irrigation to municipal require the limitation and this information has been passed on to the consultant*. Application was amended to change 61-2167 and 61-2210 back to irrigation use, standard irrigation season and full diversion volume. No enlargement will occur with these limitations.~~

Local Public Interest: Providing water to the growing community's residents is in the local public interest.

Beneficial Use/Conservation of Water Resources: This application proposes 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.

Additional Information &/or Analysis

As shown in the supportive narrative supplied by Brockway Engineering, Mountain Home is experiencing population growth of approximately 3.5% annually. Using the figures from Brockway's report, the current peak demand is 23.4 cfs. Existing rights total 20.49 cfs; 2.91 cfs is needed from the two new rights to meet current demands. The remaining 4.41 cfs would only cover a 5-year planning horizon at 3.5% annual growth. It's more reasonable to simply allow 5 years to complete the transfer than to have the applicant pursue RAFN (consultant only references a study being made; no solid data submitted). On 8/29/05 Dan Nelson spoke with Mr. Brockway about this and Mr. Brockway agreed that 5 years to complete the transfer is appropriate. Dan also informed Mr. Brockway that the historical consumptive use data would be used for determining volume limitation under the two irrigation rights being transferred. Mr. Brockway was not happy about this and subsequently met with Karl Dreher and John Westra. Based on that meeting, an amended application was filed reverting the use of the two irrigation rights back to irrigation for the full annual diversion volume allowed.

Comment letters will be sent to IDEQ and the Mountain Home GWMA Advisory Committee.

*Transfer was amended to retain full volume by leaving nature of use as irrigation.

Discussion

Partial decrees were issued & results were previously migrated to WR records; data entry therefore affected the correct WR records.

There are no overlapping rights at the place of use for the two rights being added to the system. All of the City of Mountain Home rights are included in the transfer, so overlap for the municipality place of use is n/a. Other rights with the same legal description as some of the points of diversion are privately owned wells, so there are no overlaps to be considered for this transfer.

Summary

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 of approval should be applied as listed in the draft approval document.

Condition 046 n/a since no new wells are proposed.