

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 6/11/2004

RE: FRED MAUL TRANSFER # 71807, RIGHT 63-31590

The transfer proposes to change the point of diversion to an existing well located in the SENW S9 T2N R1E, Ada County. The applicant recently discovered that he owned a portion of this water right. He is now filing to allow diversion from his own well, since the pipeline across the canal to his property has been removed.

AUTHORITY TO FILE:

The applicant is the owner of record per a change of ownership in the Snake River Basin Adjudication.

WATER RIGHT VALIDITY:

These water rights have been reviewed and recommended by Craig Saxton of our adjudication staff. Original reviews of this system suggested that Mr. Maul's portion of the original water right didn't exist, because there was no apparent way to transport Mr. Maul's portion across a canal that separates Mr. Maul's property from the other right holders. The original splits were portioned out at the maximum rate and volume per acre for those water users who had filed claims. A couple of transfers have been filed on these rights using these calculations. Mr. Maul then provided his evidence that the water could cross the canal, and filed a change of ownership on his portion of the water right. This created a dilemma on how to fix the earlier adjudication splits with existing recommendations and transfers on them. The situation was discussed with Mr. Maul, and Mr. Maul decided that it would be in his best interests to take the current rate and volume amounts left over by the previous transfers. Due to the current disputes and protests over these water rights, Mr. Maul felt he could settle any possible problems ahead of time by taking less rate and volume per acre than the other users of the original water right. Mr. Maul only uses his well water as a supplemental water right, and the other users need this water as a primary source. Therefore, the remaining portion of the water right satisfies his water needs.

INJURY TO OTHER WATER RIGHTS:

These rights have been in use for several years. The only change will be the splitting of the current system. I don't anticipate any injury from this transfer proposal.

ENLARGEMENT OF USE:

The transfer actually reduces the diversion rates and volumes slightly for this water right, to allow the other water users of the original water right to have a full rate and volume per acre. No expansion of the right is being proposed.

LOCAL PUBLIC INTEREST:

There is nothing to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

Applicant proposed beneficial use consistent with irrigation 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 largest issue for this transfer is the change in the rates of diversion and volumes made in the recommendations. These changes are reasonable, and were made to correct an earlier error made when the rights were split due to ownership changes. The original rights were allocated at a full rate and volume per acre. Mr. Maul's portion was less than what he is entitled to under an equal split. However, Mr. Maul has consented to take a lesser amount of water to avoid any protests or disputes. Mr. Maul's portion is the only portion of the original water right that is supplemental, so it is reasonable that his historical portion of the water right would be less than the other water users. I feel Mr. Maul's letter is very generous and understanding of the other water user's plight, and I feel we should follow his wishes.

There is also an issue of rounding associated with the capabilities of the database systems for the adjudication staff and allocation staff. The adjudication staff has the ability to allow portions of an acre down to the nearest hundredth (0.01), while the allocation staff can only allow acres to the nearest tenth (0.1). I have discussed this with Craig Saxton, and he has no problem with the transfer correcting the rounding issues.

Five different owners have split the original water right; four currently still share the same system. Mr. Maul hasn't had the need to draw water from the original well since he purchased the property. Each of those individuals have filed their own water rights, but all of the rights are diverted from a common well. Water right 63-31462 for Welebir is currently residing in the water bank. Water Rights 63-31470 owned by Bohlman, 63-31472 owned by Archuleta, and 63-31591 owned by Greenwell. Bohlman, Archuleta, and Greenwell are still using the well. Mr. Maul's right has just been changed into his name, but it is a supplemental right. Mr. Maul hasn't needed his supplemental water right, but with the current weather forecasts, it is likely he will need to divert water this year. The approval of this transfer shouldn't affect the other rights on the well, and should help alleviate the tension currently being experienced between the water users, because Mr. Maul is taking a small share of water.

The Greenwell property does have a second water right 63-9686. This water right was licensed for domestic purposes and irrigation from a separate well. However, the adjudication recommended this water right for domestic use only. Therefore, there shouldn't be any issues with this overlapping water right.

CONDITIONS AND SUGGESTIONS

This transfer seems acceptable as listed on the front page of the transfer with the inclusion of the conditions on the draft approval.