

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 12/8/2004

RE: LANCE HESS TRANSFER NO 71687, WATER RIGHTS 65-3211B

The transfer proposes to change the nature of use of 10.5 acres of a 30-acre irrigation right to allow Recreation use for maintaining 3 ponds. The ponds will initially be filled with shallow ground water under an accompanying application for permit. This transfer was filed to allow the applicant to divert his surface water into the ponds to account for the consumptive evaporation component of the ponds. The location of the proposed ponds are located ½ mile south of Maki Lane on the eastside of Highway 55 in the S ½ of the NE S15, T17N, R3E, Valley County.

AUTHORITY TO FILE:

The applicant is the owner of record and has also supplied a warranty deed showing ownership of the property.

WATER RIGHT VALIDITY:

This right was decreed in the Snake River Basin Adjudication (SRBA) on 6/30/2004.

INJURY TO OTHER WATER RIGHTS:

This is an existing irrigation right. The applicant has proposed to change the nature of use on 10.5 acres of his 30-acre irrigation right to account for evaporation losses for three ponds. The lands being retired are the same lands where the ponds will be constructed. He is not requesting any changes in rate, volume, or way the water is delivered to his property. Therefore, there is no evidence that the proposed transfer will cause any injury to other water users.

ENLARGEMENT OF USE:

No addition to the rate or volume is being requested. The change in use will still be diverted to the same lands, but a portion of the irrigation use will not be used to cover pond evaporation and seepage losses. Therefore, enlargement of the right should not be an issue.

LOCAL PUBLIC INTEREST:

There is no evidence to suggest that this application will not be 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 applicant has filed an accompanying permit to this transfer for the shallow ground water that will initially fill the pond. The ground water will remain in the ponds throughout the year. This transfer was filed to keep the surface water currently used for irrigation at the same location, but to be used for evaporative losses for three ponds. This area is currently open for new appropriation, but the applicant thought it would be best for the hydrologic system to incorporate his surface water into his request for the ponds.

The ponds will have approximately 10.5 acres of surface area. Therefore, the applicant requests to change 10.5 acres of surface water irrigation to recreational use to cover the evaporative losses from the pond. The applicant has proposed that the evaporation loss will equal the standard irrigation for an acre of ground (1 to 1). This proposal sounds reasonable. The applicant is asking that the surface water only be diverted during the normal irrigation season, when most of the evaporation will occur.

The applicant could have filed a new permit that would allow him to use ground water exclusively for the ponds and, sold the portion of his surface water right currently covering the area where the ponds are located. However, this proposal shows that he is using the water sources that are available to their utmost potential.

Other than the proposed permit, there are no other significant overlapping water rights for the place of use. However, the water right for this transfer is diverted through the West Side Ditch, and there are approximately 50 water rights overlapping that point of diversion. In order to avoid a large condition to show the other water rights that are diverted through this same diversion, it is suggested that including all the water rights for this point of diversion under condition X36 would be too cumbersome, and some form of the following or another type of condition would better suit the situation:

“This right is diverted through the West Side Ditch at the point described above.”

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.