

MEMORANDUM

TO: Transfer File No. 70620

FROM: Lori Graves

DATE: 2/15/05

RE: Evaluation of Sufficiency of Information Submitted

Applicant proposes to change the nature of use from irrigation to aesthetic storage for the water appurtenant to 13 acres of land that have been historically irrigated within Warm Springs Ditch Company's service area located in T4N R1E S19, 20 and 21. The aesthetic storage will mitigate the evaporative losses for the ponds associated with Banbury Meadows Subdivision and golf course. Accompanying application for permit 63-31690 has been filed for filling the ponds from ground water. The transfer also proposes to re-distribute irrigated acres within Warm Springs Ditch Company's PPU to more accurately reflect changes that have occurred in S19 and S20 due to recent development.

The site is located west of Eagle Rd and north of Chinden Blvd.

Contact person for the applicant is Steve Hannula with ERO.

Authority to File: IDWR records list the water rights in the applicant's name. Proof of incorporation has been submitted by the applicant, which lists Brian Hoff as a director (attachment C). Mr. Hoff, representing Warm Springs Ditch Co., also submitted an acknowledgement statement for the transfer application (attachment D).

Water Right Validity: Right presumed valid since the rights were claimed on 10/30/1989 and beneficial use occurred within a five year period prior to that date. Beneficial use was confirmed with a 1987 aerial photo. Mel Schulte reviewed and recommended the rights involved for the processing of this transfer.

Injury to Other Water Rights: In an effort to prevent possible injury, this transfer serves as mitigation for application 63-31690. The Ditch Company shares associated with the 13 acres of pond area will continue to be delivered to the ponds during the irrigation season as part of a flow-through system. This water is then available to recharge the shallow ground water system as compensation for evaporation off the pond's surfaces. Applicants have not proposed an increase in net consumptive use of water or the total number of acres to which the water rights will be applied within their proposed PPU.

Enlargement of Use: Applicant's consultant subtracted the annual precipitation (12.6 in/yr at Boise airport) from the 45 in/yr Free Water Surface, which was estimated by multiplying the Pan Evap (63.97) by the Pan Coeff (0.7). $45 \text{ in/yr} - 12.6 \text{ in/yr} = 32.4 \text{ in/yr}$. Because the net pond evaporation 32.4 in/yr is less than CIR 34.9 in/yr, the

consultant concurred that the ponds would actually consume less water than pasture grass. Brian Hoff also supplied an affidavit indicating pasture grass was historically irrigated on the property prior to development (attachment E). Based on the Allen/Brockway Report, the average irrigation requirement for 13 acres of pasture grass equates to 37.8 total afa. This is roughly a one-to-one swap for irrigated lands vs. pond surface area, as generally assumed by IDWR.

Local Public Interest: The transfer maintains the beneficial use of the Ditch Co. water rights within the boundaries of the Ditch Co. service area for its shareholders while, at the same time, facilitates the use of ground water without depleting the resource.

Beneficial Use/Conservation of Water Resources: The proposal is consistent with water right standards for the area.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of this application.

Additional Information: The applicant originally included claim 63-2387A. Mel Schulte disallowed this claim and replaced it with 63-31728, which represents applicant's portion of drainage discharge for District No. 4. By court order, Drainage District No. 4 is allowed 750 cfs delivered through three ditches; Thurman Mill, Ridenbaugh and Warm Springs Slough. Claim 63-31728 represents water and acres appurtenant to Warm Springs Slough. Claim 63-2387 represents water and acres appurtenant to Thurman Mill Ditch. Warm Springs Slough flows into Thurman Mill Ditch, which is why applicant's acres are listed on claim 63-2387 for Drainage District No. 4. Bryce Farris with Ringert Clark represents District No. 4 and will be sent notice.

Claim 63-216C represents decree 63-216B. Claim 63-19425 is a combination of decrees 63-219 and 63-220. Volume and acre amounts and season of use were not listed on the decreed rights represented by claims 63-192, 63-19425 and 63-216C. The decreed cfs rate (figuring 1"/ac) was then compared with the X'd tracts on the original decreed rights (assuming 40 ac/tract) and the lesser of the two was used for determining number of decreed acres/right. See below regarding irrigation volume. Aesthetic volume proposed and recommended for each right was based on the calculated consumptive use volume appurtenant to the amount of pond acreage designated from each right for aesthetic storage.

Mel stated he would condition the rights to **462 acres irrigation (digitized) within the 484 acre ppu**. He also stated that each right would be limited to 1"/acre when combined with the other rights. Total rate involved is 10.31 cfs, which equates to 1"/acre for 515.5 acres. Obviously, ditch loss is imbedded in the rights because 462 at 1"/acre equates to 9.24 cfs. For simplicity and because the source is surface water, Jeff Peppersack said volume limitations for irrigation could be ignored.

The p/d originally listed for the Thurman Mill Ditch diversion in the SENE S5 T3N R2E was found in error. A GPS reading located the p/d in Lot 11 NESE S5 T3N R2E, which has been recommended.

Data entry affected the claim records since Mel has not yet data entered his recommendations as of the date of this memo. Claims 63-192 and 63-19425 list volume amounts that are N/A and should not be listed on the front page of the transfer approval to avoid confusion.

Watermaster comments located in the file were requested and were received 2/3/04.

2/15/05 Update: The transfer was advertised and protested by Drainage District No. 4. To satisfy an agreement/solution reached at a pre-hearing conference conducted by John Westra 12/17/04, Warm Springs Ditch Co. amended their transfer to remove right 63-31728 from their proposal. Please refer to applicant's correspondence dated 2/7/05 for further details. In a nutshell, the SRBA disallowed claim 63-31728 in the name of the applicant and replaced it with recommended claim 63-31936 in the name of Drainage District No. 4. This occurred after the protest was filed.

Although right 63-31936 overlaps the p/u, the source is wastewater and represents return flows that are collected throughout the drainage district's service area, when available. The collected wastewater is then equitably distributed by the Boise River Watermaster to delivery organizations within the drainage district. The drainage district's service area is large, resulting in their water rights overlapping many proposals. Because the unique nature of drainage district water, the department has not required the inclusion of the district's wastewater right(s) on previous transfer applications. The overlap is noted and the drainage district is sent a courtesy copy.

The amended transfer application does not need to be re-advertised, per John Westra, because the total amount transferred has been reduced rather than increased due to the removal of right 63-31728. The remaining rights have been appropriately adjusted to satisfy the mitigation requirements for application 63-31690. The rights are limited to 449 acres irrigation within a 484 acre PPU, which accounts for 13 acres converted to ponds (as mentioned above, Mel Schulte recommended 462 acres irrigation within a 484 acre PPU on the associated SRBA claims listed on the amended transfer).

Please note that although the SRBA shape file for applicant's service area does not include the W1/2NE S19 or the NESE S21, these quarters appear x'd on the associated recommendation proof reports because of a government lot issue that Mike Ciscell is unable to fix.

Conditions: 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 transfer approval should be applied.