

MEMORANDUM

TO: Transfer File No. 71518

FROM: Lori Graves 5

DATE: 8/24/04

RE: Evaluation of Sufficiency of Information Submitted

Brief: The purpose of the transfer is to split the right and use a proposed well to irrigate applicants parcel resulting from the split instead of using the original well that served the entire acreage. The proposed well will be shared. See accompanying transfer no. 71517.

The site is located 3 miles south of Lake Lowell, and 2 ½ miles west of Hwy 45.

Authority to File: Applicant provided warranty deeds for the proposed p/u and p/d. The first warranty deed from Harvest Farm Co. is for parcels 1, 2 and 3 (indicated on attachment A) covered by irrigation right 63-3593. The second warranty deed from Akinas is for adjoining land not covered by water right 63-3593, but is where the proposed p/d will be located.

Water Right Validity: Right presumed valid since the right was claimed in 1990 and beneficial use occurred within the five year period prior to that date. Beneficial use was confirmed by a preliminary SRBA review by Jan Schurte and a 1987 arc view photo.

Injury to Other Water Rights: None anticipated.

Enlargement of Use: No change in nature of use has been proposed.

Local Public Interest: No negative impacts are anticipated.

Beneficial Use/Conservation of Water Resources: Applicant proposed 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 this application.

Additional Information: The warranty deeds attached are in the applicants name and Carol Pintlers (wife) name. Pam Skaggs confirmed that after notifying the applicant, the department can add Carols name to the transfer without her signature because of the nature of the transfer. If water was being transferred away, a signature would have been required.

License 63-3593 was included on protested transfer no. 3699 that was approved in 1993. The protestants were all select members of Hat Butte Mutual Canal Company. Notice will be sent to Hat Butte Mutual Canal Company.

Discussion: This right was originally licensed for 197.2 acres, 3.94 cfs and 888 afa. As a result of approved transfer no. 3699, the license is now limited to 185 acres, 3.94 cfs and 832.5 afa. The flow rate did not get reduced in proportion with the acres, however, the volume did. On the new transfer, applicant has chosen to transfer only one inch per acre to prevent controversy and confusion. The SRBA can decide what to do with the excessive flow rate left on the remaining acres.

It appears that Snake River rights 2-2280, 2-2368 and 2-2422 cover the same acres listed on right 63-3593. The ground water was originally licensed to lands in S31, aka the Naito place, and the Snake River water was originally licensed to lands in S36, aka the Allen place. The transfer was filed as a result of complaints received by the department that waters from both sources were being used on both places via a common re-lift pond. The transfer was subsequently protested by members of the Hat Butte Mutual Canal Company. For fear of expansion, the protestants did not want Snake River water used on the Naito place. A stipulation agreement was reached, involving the installation of a bi-directional flow meter in the mainline that assured Hat Butte members that there would be no net exchange of water between the two farms, as determined each two week period when the Hat Butte system is delivering Snake River water to Hat Butte members. Basically, if the ground water pump went down, Snake River water could be used from the re-lift pond, but would have to be replaced by ground water within two weeks.

Approved transfer no. 3699 reflects a combined irrigation system, however, the transfer conditions have kept the rights separate regarding supplementation.

The proposed p/d will be located on applicants property and will be shared with right 63-31979 (applicants daughter). See accompanying transfer no. 71517. There will be two separate pumps in the well to serve separate systems. Each applicant plans to build a new home that the well will also serve. Rob Whitney stated that the well would probably be drilled as a domestic well initially, then upgraded it to an irrigation well upon approval of the transfers. The well will be located in the Dry Lake area, which is an area of drilling concern, however, Rob did not have issues regarding this well proposal because the department has not designated this area as a management area.

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.