

MEMORANDUM

TO: Transfer File No. 71280

FROM: Lori Graves 

DATE: 1/21/04

RE: Evaluation of Sufficiency of Information Submitted

Brief: Applicant wishes his water rights to reflect a combined water distribution system. The dairy operation consists of three farms joined under common ownership. Liquid waste from the dairy is diluted with irrigation water and land applied. For more efficient operation of the farm, the three irrigation systems were connected into a common system.

The site is located approximately a mile north of Pickles Butte, south of Lake Lowell.

Contact person for the applicant is Darwin VanderStelt.

Authority to File: Current records show the rights listed in the name of Beranna Dairy (63-3366, 63-3396, 63-8232, 63-10268) or Teunissen Family Trust (63-3329, 63-8253) or Bernard and Jane Teunissen Family Trust, Beranna Dairy, Jane Teunissen, and Bernhard Teunissen (63-2839, 63-29025). Attorneys of record are Scott Cambell and AngelaSchaer Kaufmann, Moffatt Thomas Barrett Rock & Fields Chtd for claims 63-2839, 63-3329, 63-8253 and 63-29025. The IDSOS search for business entities showed Bernie, Anna, Bernard and Jane Teunissen doing business under Beranna Dairy. Because the current records are linked somewhat by name and because water is not being transferred away, ownership documentation was not requested.

Farm Credit Services has a mortgage on some of the land listed in the proposal. Their consent is attachment B. A copy of the complete transfer application has been sent to them per their request in the consent letter.

Water Right Validity:

Rights 63-3366, 63-3396 and 63-8232 are assumed valid because they were part of transfer 68964 recently approved in May, 2003.

Right 63-10268 is presumed to be valid. SRBA is not applicable to this right because it was developed after 1987. Recent beneficial use was confirmed via 1997 field exam and 2000 aerial photo. The right was still in permit stage when the transfer was filed. Applicant's consultant used the permit flow rate. Kay Walker licensed the permit so that processing could proceed. Rather than 1.6 cfs, the right was licensed for 77 acres at 1.54 cfs per the field exam findings.

Preliminary SRBA reviews involving Craig Saxton were done on rights 63-2839, 63-3329, 63-8253 and 63-29025. The results are as follows:

Claim 63-2839 was licensed for with a 1955 priority date for 80 acres in S9. Because of the Mora canal, one acre in the SESW will be omitted from the proposed PPU (39 acres rather than 40).

Claim 63-29025 is an expansion claim to right 63-2839. The claim lists a 1960 priority date, which is not in violation to the mandatory permit statute. The 32 acres listed on the claim appear irrigated in 1987. George Walker provided an affidavit stating that the 32 acres were irrigated in 1960. The applicant's consultant verified that the original system had not changed since the licensing exam, which measured system capacity at 1.35 cfs. When combined, rights 63-2839 and 63-29025 are limited to 1.35 cfs.

Claim 63-3329 was licensed for 204 acres and 2.06 cfs. Of those, 37 acres in the SESW and 29 acres in the SWSE S16 do not appear irrigated in 1987. However, 15 acres in the SESW and 6 acres in the SWSE S16 were brought back into production based on the 2000 arc view photo. The 2000 photo shows 164 acres of the 204 original licensed acres currently being irrigated. 865 total afa was licensed based on system capacity and a 210 day irrigation season. SRBA will recommend 2.06 cfs and 738 afa based on the 164 acres found irrigated in 1987.

Claim 63-8253 was licensed for an additional 1.16 cfs on 139 acres that directly overlap the 164 acres found irrigated under claim 63-3329. Both claims use separate wells that were licensed at their capacity. $2.06 \text{ cfs} + 1.16 \text{ cfs} = 3.22 \text{ cfs}$. $3.22 \text{ cfs} / .02 \text{ cfs} = 161 \text{ acres}$. As mentioned above, based on resumption of use, the 164 acres found irrigated in 2000 can be recommended. Although less acres are being irrigated, total licensed flow rate does not have to be reduced. Since the transfer is proposing a combined PPU, the acre reduction is not an issue.

Injury to Other Water Rights: None anticipated. No additional wells have been proposed.

Enlargement of Use: No changes in nature of use have been proposed.

Local Public Interest: No negative impacts are anticipated.

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 this application.

Additional Information: Decree 63-20932 was also included as part of the transfer package. The decree is for domestic and stockwater use. Applicant's consultant included the right because of the stockwater, however after discussing the dynamics of the domestic system, he concluded that it was separate and should not be listed on the

transfer as part of the combined system. As a result .11 cfs and the well listed in the SWSW S16 T2N R3W were not included in the transfer recommendations.

As mentioned above, claims 63-2839 and 63-29025 are limited to 1.35 cfs. The .64 cfs listed on claim 63-29025 should not be added to the system total. The cfs amount listed for right 63-10268 should be the licensed 1.54 cfs rather than 1.6 cfs. Also, flow rates for stockwater and commercial uses are not additive to the irrigation flow rates listed on the rights approved per transfer no. 68964.

Conditions on transfer 68964 limits rights 63-3366, 63-3396 and 63-8232 when combined. A condition on license 63-10268 limits rights 63-3326, 63-8253 and 63-10268 when combined. The other rights did not list special conditions. Based on the following chart, condition WB4 should limit this transfer's combined rate to 8.98 cfs and combined volume to 3623.2 afa and condition X35 should limit irrigation use to a combined rate of 8.98 cfs and combined volume of 3423.2 afa.

63-2839	79 ac	1.35 cfs	356.0 afa	(SRBA evaluation)
63-29025	32 ac	.64 cfs	144.0 afa	(expansion claim on 63-2839 p/d)
Total	111 ac	1.35 cfs	500.0 afa	
63-3329	164 ac	2.06 cfs	738.0 afa	(SRBA evaluation)
63-8253	139 ac	1.16 cfs	563.7 afa	(same p/u as 63-3329, diff p/d)
63-10268	77 ac	1.54 cfs	347.0 afa	(same p/ds as 63-3329, 63-8253, diff p/u)
Total	241 ac	3.22 cfs	1085.0 afa	
63-3366	428 ac	2.09 cfs	649.4 afa	(x-fer 68964 approved 5/28/2003)
	Stock	.22	56.5	
	Comm	.22	14.1	
63-3396	428 ac	1.20 cfs	243.4	
	Stock	.08	21.3	
	Comm	.08	5.3	
63-8232	428 ac	2.73	1125.5	
	Stock	.32	82.2	
	Comm	.32	20.6	
Total	428 ac	4.41 cfs	2038.2 (1838.2 for irrig alone)	

Also, as a result of this transfer, condition X35 listed on license 63-10268 needs to be changed. This condition limited volume to 1660 afa when rights 63-3329, 63-8253 and 63-10268 were combined, which was based on flow rate (3.22 cfs x 1.9835 x 260 days). Since less acres are being recommended for right 63-3329, this condition should now limit combined volume to 1085 afa (241 acres x 4.5 afa).

Applicants listed 826 acres for their ppu. Because of the SRBA's recommended 1 acre reduction in the SESW S9 on claim 63-2839 due to the Mora Canal, applicant's consultant agreed that total PPU should list 825 acres (1 acre less in the SESW S9).

In the overlap review, surface water right 63-2388 showed up, however applicant's consultant stated surface water is not used on the property because the site is located south of Mora Canal and on high ground that cannot receive surface water.

Notice is being sent to Dennis Lyons because we have received written complaints from him in the past regarding water use at the proposed site. Notice is being sent to Claudia Haynes and Rajero because they voiced their concerns regarding the applicant's dairy during the Chase hearing conducted by IDWR. Notice is also being sent to the protestants of transfer no. 68964 that was previously approved for the applicant at the proposed site involving rights 63-3366, 63-3396 and 63-8232.

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 approval should be applied.