

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 9/8/2004

RE: DAN VAN GROUW TRANSFER # 71131

Two transfers have been filed on water rights 63-7695 and 63-10307 owned by Ed Van Grouw. Please see Ed Van Grouw's transfer # 71130. Ed Van Grouw sold a portion of water rights 63-7695 and 63-10307 to his brother Dan Van Grouw to be used in his existing dairy operation. Dan Van Grouw's portion will result in the retirement of 17.1 acres of irrigation from 63-7695 and 27.1 acres of land from 63-10307. All the water appurtenant to these lands will be moved to Dan Van Grouw's existing dairy located in N ½ SE with land application in the S ½ of S33 T3N R1W, Ada County. Dan Van Grouw's portion of these rights will be 63-31865 and 63-31868. The water will be diverted from Dan Van Grouw's two existing dairy wells. When combined with Dan Van Grouw's existing water rights 63-12109 and 63-31749 there will be sufficient water to supply 1190 milking cows, 150 dry cows, and 732 heifers and calves. Water rights 63-12109 and 63-31749 were added into this transfer to correct a data entry error in the conditions. Jeff Peppersack approved adding these rights without increasing the filing fee for these rights since the condition error was not the applicant's error.

AUTHORITY TO FILE:

The applicant has a verbal agreement to convey the water from his brother's property. I have received confirmation of this agreement from Ed Van Grouw. There currently is no formal documentation. I am willing to require this formal documentation if the State Office staff deems necessary, however, after talking with both gentlemen, I am comfortable with the arrangement.

WATER RIGHT VALIDITY:

These water rights have recommended by Snake River Basin Adjudication Agent Scott King. Therefore, I have no reason to question the validity of the rights.

INJURY TO OTHER WATER RIGHTS:

This is an existing dairy that is proposing to upgrade their water rights and increase their herd size. There is no evidence that this change would suggest any harm or injury.

ENLARGEMENT OF USE:

The dairy itself would not enlarge the use of the water right, since irrigation is being retired to allow the dairy use. The applicant's consultant performed a historical consumptive use analysis of the irrigation use and only the consumptive use volume is being allowed for the dairy.

LOCAL PUBLIC INTEREST:

This facility has been in use for a number of years. Our office has no information to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

This facility proposes beneficial use consistent with conservation of water resources in Idaho and has provided worksheets that show the dairy will be operated under standard conservation practices.

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's consultant proposed that the original water right 63-7695 could provide all of the volume needed to irrigate the 275 acres associated with this right, and that 63-10307 only provided additional diversion rate for the acres that both rights covered. 63-10307 does irrigate 10 additional acres, but 275 acres were irrigated from both rights. Bearing this in mind, applicant's consultant requested that the entire volume for the lands being retired under both rights be allocated only to commercial and stockwater portion of the split from 63-7695. Jeff Peppersack of our State Office staff assured me that this would be acceptable, as long as there is no volume given to dairy portion of rights 63-10307, except for the 10 acres solely covered by this right and the stockwater already existing on the right. The transfer has been proposed in this manner.

The only overlapping water rights are 63-31740 and 63-12109 currently owned by the applicant. There is canal water on the property for irrigation purposes.

63-31740 and 63-12109 were added onto the transfer to clarify condition 6 of 63-31749. This condition limits the combined volume of 63-12109 and 63-31740 to 42 acre feet. However, when these two rights are combined the additive volume of the two rights is only 24 acre-feet. Water right 63-12109 shows a total diversion volume of 38 acre-feet of water. It should only be 21 acre-feet if water. This transfer should allow us to correct those discrepancies. The errors to 63-31740 and 63-12109 were data entry errors; therefore, Jeff Peppersack agreed that we should not charge a processing fee for the portion of the transfers total water use in this transfer associated with these rights.

CONDITIONS AND SUGGESTIONS

Please see draft approval for draft conditions.