

MEMORANDUM

TO: Transfer File No. 71191

FROM: Lori Graves 

DATE: 4/13/04

RE: Evaluation of Sufficiency of Information Submitted

Brief: Applicant proposes adding a supplemental well to his existing dairy operation and clarifying the place of use to reflect where wastewater from the dairy is land applied.

The site is located two miles west of Marsing and one mile north of Hwy 95.

Contact person for the applicant is Darwin Vanderstelt.

Authority to File: This proposal was filed in the name of Mirada Farms. The water right involved is currently in the name of Mirada Farms as a result of approved transfer no. 68053 in 2001. The ownership documentation for the subject property submitted with that transfer is in the name of Mirada Farms Partnership. The problem is that Mirada Farms is a registered business entity in California, not Idaho. Since the ownership documentation lists Mirada Farms Partnership and the water right is currently in the name of Mirada Farms, applicants provided their partnership agreement with a list of partners, including William Cornel VanDam, who signed the application. Applicants then changed the name on their application to Mirada Farms Partnership to match the ownership documentation. Because you cannot legally do business in Idaho without being registered in Idaho, applicants became an Idaho business entity 6/1/2004 under the name of Mirada Farms. Pam stated 6/2/04 that we can now process the transfer in the name of Mirada Farms, as was originally filed, rather than Mirada Farms Partnership.

Water Right Validity: Right assumed valid because the partial decree was issued on 2/7/2002 within the past five-year period.

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.

SCANNED

APR 21 2004

Additional Information: Comments will be sent to COCOA Chapter of Idaho Rural Council, Inc. and Citizens of Owyhee County Organized Association, aka COCOA. See discussion below for further explanation.

Discussion: As mentioned above, transfer no. 69053 was approved in 2001 for the dairy operation. No protests were received for that transfer. Applicants then filed transfer no. 69917 in 2002 to add a p/d (similar to this transfer proposal), which was protested by COCOA Chapter of Idaho Rural Council, Inc. located in Filer, Idaho. This group is different than Citizens of Owyhee County Organized Association, aka COCOA, located in Marsing, Idaho. As a result of the protest, transfer no. 69917 was withdrawn. Notice will be sent to the Filer COCOA.

Notice will also be sent to the Marsing COCOA because they have previously requested notification for all proposals involving dairies in Owyhee County.

Hans Nederend is leasing the dairy with a lease purchase agreement from Cornel Van Dam. Hans received a drilling permit in 2002 to replace the existing well serving Van Dam's dairy. The replacement well is not producing as expected, which is the reason for this transfer. Please note that the original dairy well that was replaced has not been properly abandoned as conditioned on the replacement well's drilling permit no. 347196. Rob Whitney stated that he will not approve any future drilling permits until the original well is in compliance.

The overlap issues were covered under the previous transfer reviews and have not changed. The only significant overlap is Gem Irrigation District water, which was addressed in the conditions for approved transfer no. 69053. Those conditions will be carried forward to this transfer.

This application was asked to be expedited so that the proposed back-up well can be online before the heat of the summer. Last summer, the dairy cows went without water three times because a back-up water source was not available.

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.

SCANNED

APR 21 2004