

MEMORANDUM

Date: Revised August 30, 2004
To: Transfer 69149
From: amerritt
Re: sufficiency memo

Evaluation of Sufficiency of Information Submitted (Transfer 69149 in the name of Jose & Maria Borba)

This transfer initially proposes to dry up 5.0 acres of land (15 afa of CU water) which is a portion of a PPU of 372 acres known as the Larsen Farm. This farm was historically irrigated using rights 36-7044, 36-2676 and 36-7158 from ground water. The water proposed to be converted from irrigation is to be used for stockwater and commercial uses at an existing dairy currently partially covered under license 36-8731. The transfer proposes to move the water across the ESPA approximately 29 miles down gradient toward the west-north-west to the site of the dairy facility where the water will be combined with the existing right. The transfer will tie all rights in a common system served by one existing well, and one proposed well at the site. The water being transferred is assumed to be totally consumptive.

The application has been augmented by a mitigation plan involving reducing the intended volume to be transferred from the Larsen property but making it up by and drying up of initially 6.9 acres on the Beckley property (near Dietrich) approximately 14 miles NE of the dairy facility site. These acres are a portion of the place of use of right 37-7331 recently decreed in the SRBA. The decree for 37-7331 notes that the right is combined with AFRD 2 and BWCC shares however further review based on submittal of the stock certificates for Beckley shares in BWCC during review of Busman transfer T68993 show that the shares are associated with adjoining land but the land involved in the transfer is primarily supplied water from right 37-7331.

Authority to File:

A portion of the subject land being dried up involved in transfer is owned by John and Vivian Larsen. The file contains an agreement for purchase and sale of these subject lands from John and Vivian Larsen to Del Kohtz. The file also contains an agreement between Del Kohtz and the applicant for purchase of a portion of the Larsen rights.

The subject land on the Beckley property involved in the mitigation plan is owned by R.K. and Bonnie Beckley. The file contains an option agreement between Beckley and Del Kohtz for purchase of right 37-7331. Purchase of Land not included. The file also contains an agreement between Del Kohtz and Borba Dairy for purchase of a portion of 37-7331.

Water Right Validity:

All rights involved in the transfer from the Larsen property have been recently decreed in the SRBA with dates of partial decrees ranging from 12/ 1996 to 1/1998. Forfeiture does not appear to be an issue. Included in the files of previously processed transfers involving these same rights are documents evidencing the recent use of the irrigation rights in years 1996 through 2000.

The right involved in the transfer from the Beckley property for mitigation has been partially decreed. The files of previously processed transfers includes an evaluation of the consumptive nature of the Beckley right with use as recent as 2002. Forfeiture does not appear to be an issue.

MEMORANDUM

Enlargement of Use:

Due to the irrigation rights being changed to commercial and stockwater needs an analysis of the historical use information has been made for both the Larsen farm and the Beckley farm. Based on this analysis the consumptive use allowable to be transferred from the Larsen farm should be limited to no more than 2.69 afa per acre of dried up land (Total of 13.5 afa for 5.0 acres) for conversion of nature of use. The consumptive use for the fields involved in the transfer on the Beckley property should be limited to no more than 2.81 afa per acre for conversion of nature of use. (Total of 1.7 afa for the 0.6 acres) for the portion to make up volume need at the dairy as originally requested. 4.0 afa is allowed on the Beckley property to be used for mitigation for the rights being moved from the Larsen property. (Total of 25.2 afa for the 6.3 acres involved in mitigation)

Injury to Other Water Rights:

Included with the application is a proposed mitigation plan prepared by Brockway Engineering. The plan is based on modeling of the ESPA. The plan involves use of 15 afa beginning in 2005 at the dairy. The plan includes permanently drying up 5.0 acres (13.5 afa) of the Larsen rights and 0.6 acres (1.5 afa) of the Beckley right and moving it to the dairy. Additionally to mitigate the move of the above water to the dairy across the ESPA an additional 6.3 acres are initially being dried up at the Beckley site with a stepped increase of allowable irrigation use over several years back up to an allowable irrigation of 4.5 acres with a permanent none use of 1.8 acres for mitigation. (A total of 2.4 acres will be dried up at the Beckley site which includes 0.6 acres dried up for moving to the dairy and 1.8 acres remaining at the Beckley property and not used for irrigation but used for mitigation) The plan acknowledges the historical use of the Larsen rights and historical use on the Beckley property.

Local Public Interest:

No major issue identified. Transfer is based on total consumption of water however it is likely a small portion of water diverted will be returned to aquifer. The application involves a CAFO permit in Jerome County involving review by the sighting team in which IDWR participated.

Beneficial Use/Conservation of Water Resources:

No Issue Identified.

Other issues:

The application has been advertised and protested by Clear Springs. Negotiations continue regarding withdrawal of the protest.

The mitigation plan submitted by Brockway was based on 1/100 of acres and used 2.84 afa CU for Beckley. The transfer affects spreadsheet was ran again by IDWR using 1/10 of acres and 2.81 afa CU for Beckley with the other parameters the same as proposed with essentially the same results of mitigation within guidelines of acceptability.

Proposed use is within WD 130 and the watermaster needs to provide comments based on the present submittal.

It is intended to supplement file with an amended application signed by the applicant ac