

MEMORANDUM

Date: March 03, 2004
To: Transfer 69125
From: ameritt
Re: sufficiency memo

Evaluation of Sufficiency of Information Submitted (Transfer 69125 in the name of Kevin Parnell)

This transfer proposes to convert water used for irrigation and use the water for stockwater and commercial uses at an existing dairy currently partially covered under a partial domestic decree 36-14863. The transfer initially proposed to dry up 6.7 acres of land (20 afa of CU water) being a portion of a PPU of 372 acres known as the Larsen Farm. This farm is irrigated using rights 36-7044, 36-2676 and 36-7158 from ground water recently decreed in the SRBA. The transfer proposes to move the water across the ESPA approximately 29 miles down gradient toward the west to the site of the existing dairy facility where the water will be combined with the existing right. The transfer ties all rights in a common system served by one existing well and one proposed well at the dairy site. The water being transferred is assumed to be totally consumptive. After analysis of the CU on the Larsen Farm the application was augmented by a mitigation plan involving reducing the intended volume to be transferred from the Larsen property (18.0 afa) but making it up by drying up 0.9 acres (2.0 afa) on the Beckley property (near Dietrich) approximately 13 miles NE of the dairy site. These acres are a portion of the place of use of right 37-7757 recently decreed in the SRBA. The decree for 37-7757 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 UR Farms T69120 show that the shares are associated with adjoining land but the land involved in the transfer is primarily supplied water from right 37-7757. As part of the mitigation plan an additional 3.6 acres will be dried up for a period of time then after a few years 1.5 acres will be allowed to return to production. In total 3.0 acres of this right will be permanently dried up (0.9 acres for conversion to dairy and 2.1 acres for mitigation. Additionally to provide the additional necessary mitigation requirement to prevent impact to the Thousand Springs reach of the Snake River the applicant proposes to rent from the Water Bank the dairy component of recently decreed in the SRBA rights 37-8093 and 37-10142 on the Hubsmith Farm near the Beckley Farm. This proposed rental of water is for the time period of winter 2004 through summer of 2008. During this period these Hubsmith waters will not be used anywhere.

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 for purchase of the Larsen right. 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 a portion of right 37-7757. Purchase of Land not included. The file also contains an agreement between Del Kohtz and Kevin Parnell for purchase of the Beckley right. The file also contains application to place the Hubsmith water in the Water Bank and an application to rent it out by Kevin Parnell.

Water Right Validity:

All rights involved in this 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 earlier transfer applications for these same rights are documents evidencing the

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recent use of the irrigation rights in years 1996 through 2000. The right involved in the transfer from the Beckley property has also been recently partially decreed. The earlier transfers filed on this same right includes an evaluation of the consumptive nature of the right with use as recent as 2002. Forfeiture does not appear to be an issue. Hubsmith rights were decreed in 2002; forfeiture does not appear to be an issue.

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 (Based on analysis of cropping patterns over several years; number is average peak use for all crops on farm. Total of 18 afa for 6.7 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 2.84 afa per acre (Based on pasture use in 2002. Total of 12.8 afa for the 4.5 acres) to be used for mitigation for the right being moved from the Larsen property and a portion to makeup for volume needed at the dairy as originally requested.

Injury to Other Water Rights:

As stated earlier 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 a constant new use at the dairy of an additional 20 afa. Additionally the plan includes an immediate none use of a portion of the Beckley right (4.5 acres) with a stepped increase of allowable use over several years up to an allowable 1.5 acres with a permanent none use of 3.0 acres. (3.0 acres includes 0.9 acres dried up for moving to the dairy and 2.1 acres remaining at the Beckley property 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. Jerome County has a pending CAFO permitting process awaiting the outcome of this transfer.