

MEMORANDUM

TO: Rinker Surface Water Transfer Application (#5555, #5556, #5560, and #5561) Files

FROM: Corey Skinner /CS

DATE: November 9, 1999

SUBJECT: Staff Review

The enclosed transfer application is part of four surface water transfer applications (#5555, #5556, #5560, and #5561) filed in the name of Harry Rinker, by Brockway Engineering. These four applications deal with portions of three decreed surface water rights, 37-00521, 37-00522, and 37-00523. The portions of these rights are currently associated with land located just north of Hailey, located on both sides (east and west) of Highway 75. This land, is part of the Chapman ranch that Mr. Rinker purchased from John S. Chapman in April of 1990. The portions of these three decreed rights associated with this land consist of parts of the remaining, "untransferred" portions of the base rights. Therefore, the water right records are based on the original decree records. However, the original decrees only listed the amount of water under each right, and a general description (no specific acre amounts) of the place of use for the water rights. Transfers #5555 and #5556 have been filed to attempt to accurately describe the recent historical surface water usage on the property that Mr. Rinker purchased from Mr. Chapman. Transfer #5555 deals with land west of Highway 75 and transfer #5556 deals with land east of Highway 75. Transfers #5560 and #5561 were each filed to attempt to transfer a 1.0 acre portion of the surface rights associated with the Rinker property to a new point of diversion and place of use, located a little over three miles up the Big Wood River Valley.

Brockway Engineering originally submitted transfer applications on behalf of Harry Rinker that dealt with the same rights and property described in the enclosed application(s), back in August of 1995. However, during the review of these applications, numerous issues involving the rights and the associated property were discovered. Kelly Christensen, SRBA agent, assisted in the research and review of the rights and property involved with the applications. Several meetings and discussions were held between Brockway Engineering, Kelly, and I, but many of the issues were unable to be resolved. In August of 1997, the original applications were sent back to Brockway Engineering and the filing fees were refunded. Earlier this summer, six transfer applications (#5555, #5556, #5560, #5561, #5584, and #5585) were submitted in an attempt to define the historical water use, and the water rights, associated with Mr. Rinker's portion of the Chapman property. As previously mentioned, there are quite a few issues associated with the property and appurtenant water rights, but these issues can be further clarified if needed. The enclosed applications represent a significant improvement over the currently recorded historical water right records associated with the property.

As previously mentioned the applications deal primarily with parts of the old Chapman Ranch located just north of Hailey. Prior to Mr. Rinker becoming involved in the property, the ranch consisted of about 314 total acres of land, and had been owned by the Chapman family for many years. About 166 acres of the ranch is located on the west side of Highway 75 and about 148 acres of the ranch is located on the east side of Highway 75. In April of 1990, Mr. Rinker purchased 140 acres of the 166 acres located west of the highway and he also purchased about 132 acres of the 148 acres located east of the highway. Mr. Rinker proceeded to subdivide his 140 acres located west of the highway into four lots (numbered 1-4) and named the subdivision River View Ranches. As previously mentioned, the recorded surface water rights for the entire property were based on the original decree records, and did not reflect the numerous, unrecorded, changes that had occurred over the years.

Transfer #5555 was filed in an attempt to record the historical water usage on lots #1 and #2 of the River View Ranch subdivision. Mr. Rinker has sold lots #3 and #4 so they are not addressed in transfer #5555. Lots #1 and #2 make up approximately the north 65 acres of the River View Ranch property. The land that makes up lots #1 and #2 has been historically irrigated with water diverted out of the Purdum Slough, which is a side channel of the Big Wood River, under portions of rights 37-00521, 37-00522, and 37-00523.

When the original transfer applications dealing with the River View Ranch property were filed in 1995, a field review revealed that not all of the property appeared irrigated. The majority of the property is located along the Big Wood River and there are several old channels that run through the property, especially towards the north, upper, end, where lots #1 and #2 of River View Ranch are located. This results in portions of the property having somewhat of a "rolling" topography that could not entirely be irrigated via traditional (non-sprinkler) irrigation methods. Due to the abundant tree growth on the property, especially towards the river, it is difficult to determine irrigated areas from aerial photos.

On January 10, 1996, Kelly Christensen and I met Charles E. Brockway to examine the property, on site. We examined the property and discussed various aspects of the irrigation methods on the property. During this field visit, and during some later meetings, it was mutually agreed upon that probably the most appropriate method to determine the irrigated acres on this property would be to assign certain percentages of actual irrigated acres to various portions of the land that makes up lots #1 and #2 of River View Ranches. Using subdivision boundaries, quarter-quarter lines, and topographical

November 15, 1999

features, the land that makes up lots #1 and #2 of River View Ranches could be subdivided into different areas of varying percentages of irrigated land. These areas could then be utilized to determine a reasonable estimate of the number of irrigated acres on the property. A brief description of these various areas would be as follows...

Lot #1, located between the Big Wood River and the Purdum Slough, within the SENW $\frac{1}{4}$ of Section 32, was determined to have no irrigated acres. There was no evidence of any irrigation system ever being present to deliver water to this area.

Lot #2, located between the Big Wood River and the Purdum Slough, within the SENW $\frac{1}{4}$ of Section 32, was determined to have no irrigated acres. There was no evidence of any irrigation system ever being present to deliver water to this area.

Lot #1, located east of the Purdum Slough, within the SENW $\frac{1}{4}$ of Section 32, was determined to have approximately 50% of the total area consisting of irrigated ground. This area consisted primarily of the "rolling" topography with some areas being irrigated and some not being irrigated. There were some ditches located in this area, with some irrigated areas being down gradient from the ditches and other unirrigated areas being up gradient of the ditches. The total area consists of about 7.0 acres, and with 50% of this area being irrigated, the total irrigated area is 3.5 acres.

Lot #2, located east of the Purdum Slough, within the SENW $\frac{1}{4}$ of Section 32, was determined to have 100% of the total area consisting of irrigated ground. The area consisted primarily of a meadow with irrigated grass. The total irrigated area is about 6.8 acres.

Lot #1, located west of the Purdum Ditch, within the SWNE $\frac{1}{4}$ of Section 32, was determined to have 50% of the total area consisting of irrigated ground. This area consisted primarily of the "rolling" topography with some areas being irrigated and some not being irrigated. There were some ditches located in this area, with some irrigated areas being down gradient from the ditches and other unirrigated areas being up gradient of the ditches. The total area consists of about 11.0 acres, and with 50% of this area being irrigated, the total irrigated area is 5.5 acres.

Lot #2, located west of the Purdum Ditch, within the SWNE $\frac{1}{4}$ of Section 32, was determined to have 100% of the total area consisting of irrigated ground. The area consisted primarily of a meadow with irrigated grass. The total irrigated area is about 8.9 acres.

Lots #1 and #2, located east of the Purdum Ditch, within the SWNE $\frac{1}{4}$ of Section 32, were determined to have 100% of the total area consisting of irrigated ground. The area consisted primarily of a meadow with irrigated grass. The total irrigated area is about 11.9 acres.

Adding up the irrigated acre amounts reveals that historically there have been about 10.3 acres of ground irrigated on lots #1 and #2 of River View Ranch within the SENW $\frac{1}{4}$ of Section 32. In addition, there have been about 26.3 acres of irrigated ground located on lots #1 and #2 of River View Ranch within the SWNE $\frac{1}{4}$ of Section 32. These acre amounts represent a reasonable estimate of the historically irrigated acreage associated with this property. The proposed place of use described in Transfer #5555 represents these amounts, minus two acres in the SENW $\frac{1}{4}$ of Section 32 that are being transferred away through companion transfers #5560 and #5561.

Examination of Transfers #5555, #5556, #5560, and #5561 reveal that they all propose transferring portions of water rights 37-00521, 37-00522, and 37-00523 that total about two inches (0.04 cfs) to the acre. This exceeds the "inch to the acre" standard, but examining the history of the base rights (37-00521, 37-00522, and 37-00523) for the transfers reveals some interesting information relating to the rate per acre for these rights.

Water right 37-00521 was originally decreed for 8.00 cfs, water right 37-00522 was originally decreed for 7.00 cfs, and water right 37-00523 was originally decreed for 6.00 cfs. All three of these rights were decreed to the same, common, place of use, for a total of 21.00 cfs. The decree listed the place of use as just 40-acre tracts, with no number of irrigated acres specified within each 40-acre tract. Assuming, that the entire place of use described in the decree was actually irrigated, then about 520 acres would have been irrigated. Using the total of 21.00 cfs for the three rights, and 520 acres, the original decreed rate per acre is about two inches (0.04 cfs) to the acre.

In 1935, another decree was issued splitting rights 37-00521, 37-00522, and 37-00523 into "A" and "B" portions. The three "A" rights were decreed for a total of 12.60 cfs, with water right 37-00521A being decreed for 4.80 cfs, water right 37-00522A being decreed for 4.20 cfs, and water right 37-00523A being decreed for 3.60 cfs. The three "B" rights were decreed for a total of 8.40 cfs, with water right 36-00521B being decreed for 3.20 cfs, water right 36-00522B being decreed for 2.80 cfs, and 37-00523B being decreed for 2.40 cfs. Both the "A" and "B" portions of these three rights were decreed to specific places of use that were part of the originally decreed place of use for the three original base rights. The decreed place of use for the three "A" rights amounts to about 254.5 total acres and the decreed place of use for the three "B" rights amounts to about

265.5 total acres. Using the 1935 decreed total diversion rate of 12.60 cfs for the "A" rights, and the 254.5 acre place of use, results in a rate per acre of almost 2½ inches (0.0495 cfs) per acre. Using the 1935 decreed total diversion rate of 8.40 cfs for the "B" rights, and the 265.5 acre place of use, results in a rate per acre of just over 1½ inches (0.0316 cfs) per acre.

Examination of Department records indicates that there have been four previous approved transfers, #2992, #3108, #3286, and #3568 involving water rights 37-00521, 37-00522, and 37-00523. Each one of these transfers involved a different rate per acre, and some of the transfers only involved one or two of the rights that were decreed together. Transfer #2992 was approved allowing the use of a 0.92 cfs portion of water right 37-00521 (rights 37-00522 and 37-00523 were not addressed) for the irrigation of 20 acres, which works out to 0.046 cfs/acre. Transfer #3108 was approved allowing a splitting off of a portion of rights 37-00521 and 37-00522 (without addressing water right 37-00523). The total amount of water involved with transfer #3108 amounted to 1.70 cfs for the irrigation of 20 acres, which works out to be 0.085 cfs/acre. Transfer #3286 was approved allowing a splitting off of a portion of rights 37-00521, 37-00522, and 37-00523. The total amount of water involved with transfer #3286 was 2.4 cfs for the irrigation of 38.14 acres, which amounts to 0.063 cfs/acre. Transfer #3568 was approved allowing for the splitting off of a portion of rights 37-00521, 37-00522, and 37-00523. The total amount of water involved with transfer #3568 amounted to 0.16 cfs for the irrigation of 4.0 acres, which amounts to 0.04 cfs/acre. Transfer #3560 initially proposed transferring a total of 0.60 cfs of water rights 37-00521, 37-00522, and 37-00523. However, a January 17th, 1990 letter to the applicant from the Department stated that the Department would only allow 0.16 cfs, or 0.04 cfs per acre, to be transferred. The logic behind this amount was based on the original decreed rate per acre for the three rights.

Transfers #5555, #5556, #5560, and #5561 list diversion rates for the portions of rights 37-00521, 37-00522, and 37-00523 that are based on the originally decreed rate per acre for the rights, following the Department's direction given in the January 17th, 1990 letter. Realistically, the entire originally decreed place of use was more than likely not irrigated historically, due to the presence of unique features such as broken topography, the Big Wood River, roads, buildings, and a railroad. This would result in an even higher rate per acre than what is proposed in transfers #5555, #5556, #5560, and #5561, and what was described in the Department's January 17th, 1990 letter.

An excess flow analysis was not performed to justify the rates per acre described in Transfers #5555, #5556, #5560, and #5561. However, considering the decreed rates per acre, the rates per acre created by previous transfers involving the same base rights,

Page 6
Rinker Surface Water Transfer Memo
November 15, 1999

the gravelly soil near the river, some of the longer delivery ditches, and the rather inefficient historical irrigation practices, the rate(s) per acre proposed by Transfers #5555, #5556, #5560, and #5561 do not see that unreasonable.

Examination of the Department's database reveals that there are some overlapping water rights and/or SRBA claims on the property involved with Transfers #5555, #5556, #5560, and #5561. The first overlapping rights are portions of a couple of old surface water rights, 37-00833 and 37-00899. During the transfer review, it was discovered that the watermaster has no records of ever delivering these rights to the Chapman property, including those portions subsequently owned by Mr. Rinker. In addition, preliminary SRBA recommendations have been made to recommend the overlapping portions of these rights as disallowed (see R37-00833T, and R37-00899B). Further examination reveals that there are also a couple of potential overlapping groundwater rights. Water right 37-02640A overlaps parts of the places of use associated with transfers #5555, #5556, #5560, and #5561. However, companion transfers #5584 and #5585 deal with water right 37-02640A. The place of use described in transfer #5584 will overlap part of the place of use described in transfer #5555. The leftover portion of 37-02640A, after transfers #5584 and #5585, will overlap with part of the place of use described in transfer #5556. In addition, water right 37-02507A (SRBA claim A37-02507A) overlaps part of the place of use described in transfer #5556.

As previously mentioned, there are several issues involved with the enclosed applications. This memo is an attempt to address the historical irrigated acreage west of Highway 75, the rate of diversion proposed by the surface water transfers, and the overlapping water rights associated with proposed transfers #5555, #5556, #5560, and #5561. If necessary, further clarification regarding additional items can be provided.