

MEMORANDUM

Date: April 20, 2022
To: Transfer 85930
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the place of use and point of diversion for a portion of water right 15-7017. The proposed point of diversion is a new well. The proposed place of use is reduced from 170 acres to 144 acres, but the transferred rate (1.37 cfs) is not reduced because the total overall diversion rate at the proposed place of use is less than 0.02 cfs per acre.

Authority to File:

The Applicant, Cherry Creek Cattle, LLC, has the authority to file and update ownership of water right 15-7017 and associated rights 15-7487 and 15-2067. Donald Vaughn is the current owner of record for the rights. The Sheldon and Janice Vaughn Trust owned the pre- and post-transfer place of use and post-transfer point of diversion at the time of transfer submittal, according to Oneida County taxlot data. A chain of deeds was submitted with the application linking the applicant with Donald Vaughn, via the Sheldon and Janice Vaughn Trust, on 322.5 acres of the 325.0-acre pre-transfer place of use. The deeds are silent with respect to water rights, demonstrating that the water rights transferred with the land. Ownership of 15-7017 and its split portion were updated to Cherry Creek Cattle, LLC, as a result of this transfer. Ownership records for water rights 15-7017, 15-7487 and 15-2067 were updated through the transfer approval.

Water Right Validity:

The water right portion proposed for transfer is valid. It was licensed in 1985. Evidence available to the Department, including statements by the applicant and aerial photography, demonstrate that 282 acres of the 322.5 acres owned by the applicant have been consistently irrigated. As explained below, the total place of use of the split and remaining portions of water right 15-7017 authorized after the transfer will be 282 acres.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer's approval. The transfer was advertised and no protests were filed.

Enlargement of Use:

No enlargement of use will result from this transfer's approval.

Prior to the transfer, water right 15-7017 was split into three pieces:

- (1) Water right 15-7017 represents the portion being transferred.
- (2) Water right 15-7487 represents the portion remaining on Cherry Creek Cattle LLC property and tied together with water right 15-2067.
- (3) Water right 15-7486 represents a 2.5-acre portion of the right that is on two small parcels not owned by Cherry Creek Cattle LLC. Based on a careful review of maps prepared during the licensing of water right 15-7017, I determined that the water right was used to irrigate two small parcels that were subdivided and sold off after licensing. 2.5 acres of water right 15-7017 is associated with these parcels. The owners of the parcels have never updated the ownership for their portions of the right. Cherry Creek Cattle agreed that a 2.5-acre portion of the right should be left with the small parcels.

15-7017 was split disproportionately, taking with it a higher-than-licensed rate and volume per acre to the post-transfer place of use. Its rate per acre at the post-transfer place of use is just shy of 0.01 cfs. Its volume is 3.5 AFA.

The remaining portion of the right (15-7487) is stacked with water right 15-2067. Right 15-2067 was included in the transfer approval as an associated right to update conditions and to reduce the authorized place of use from 176 acres to 138 acres, to match the changes made to water right 14-7017. The reduction in acres does not result in a diversion rate in excess of 0.02 cfs per acre. In fact, 15-7487 and 15-2067 have a combined rate per acre of 0.01 cfs. The reduction in acres necessitated volume reductions, reflected in the combined use limits on 15-7487 and 15-2067. They are limited to a combined 3.5 AFA.

The net result of the transfer is that total irrigated acres are reduced by 40.5 compared to 15-7017 as licensed. Total authorized volume is reduced by 148.1 AF (15-7486 considered in addition to the reduction under 15-2067 and 15-7487).

Conservation of Water / Local Public Interest:
No issues identified.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.