

MEMORANDUM

Date: November 29, 2021
To: Transfer 85360
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to move a 6-acre portion of water right 35-14746 to a parcel (permissible place of use) located approximately 25 miles east of the existing point of diversion. Transfer 85082, approved in August 2021, moved a separate 6-acre portion of right 35-14746 to the same property (permissible place of use).

Authority to File:

The applicant, Wayne Properties, LLC, has the authority to file. The applicant is the current owner of record for the water right. The existing place of use was owned by Areva Enrichment Services, LLC, according to Bonneville County taxlot data. A deed dated 4/30/2008 withheld the water right from Areva, severing it from the land and keeping it in the name of Gold Emblem Farm. A chain of deeds linking the applicant with Gold Emblem Farms is found in the backfiles of rights 35-14268 and 35-14746. The proposed place of use and point of diversion are owned by Wayne Properties, LLC, according to Bonneville County taxlot data.

The application was signed by Robert Harris, attorney for the applicants.

Water Right Validity:

The water right is valid for transfer. It was licensed in 1997. It was the subject of Transfer 74838 (approved 2009), which moved it to its current place of use. Review of post-transfer aerial photography demonstrates consistent irrigation.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer. The transfer was advertised and no protests were received. The transfer is substantively identical to Transfer 85082, also filed on 35-14746, and approved in August 2021. According to applicant's attorney, multiple transfers are being filed to avoid mitigation for depletions to the Snake River. The Department recently adopted an updated version of the ESPA Model. The model would allow more acres to be transferred from the existing point of diversion to the proposed point of diversion without triggering the need for mitigation. The Department asked the applicant to provide a cumulative analysis for Transfers 85082 and 85360. The analysis showed that the acres to be transferred were not irrigated in 2012 or 2013 as a result of a transient state mitigation for a previous transfer. The analysis showed that the transfers could be approved without requiring mitigation. In other words, impacts to the modeled reaches of the Snake River were less than 2 AF/trimester.

Enlargement of Use:

No enlargement of use will result from this transfer's approval. Neither rate, volume, nor irrigated acres are authorized to increase. The remaining portion of right 35-14746 reflects the approval of unrelated Transfer 85192, which occurred between this transfer's submittal and approval.

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.