

MEMORANDUM

Date: November 12, 2021

To: Transfer 84613

From: James Cefalo

Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to update water rights 13-885B, 13-886B, 13-887B, 13-889D and 13-57 to reflect the way the rights have been used for many years. The Department recently approved Transfer 80973 (13-885A, 13-886A, 13-887A and 13-889C) which addressed questions of acre limits, forfeited overlapping water rights, and cleared the way for this transfer application to be filed. These rights are currently used to irrigate 610.4 acres. Cottonwood Creek rights are diverted through a shared canal/pipeline and are injected into Stockton Creek near the head of the Stockton Creek drainage.

Authority to File: Merrill Ranch Partnership LLC is the owner of record for all of the rights. Merrill Ranch is the owner of record for the proposed place of use according to Bannock County parcel records.

Water Right Validity: Water rights are valid. Based on decree, ownership splits and forfeiture of previous overlapping rights, the Cottonwood Creek rights are limited to 442 acres. The Stockton Creek right is limited to 168.4 acres. The rights in combination are used to irrigate 610.4 acres. All of the acres identified in this application are currently irrigated or have been irrigated in the past. The largest right (13-889D) is very junior on Cottonwood Creek and is rarely available. The remaining rights are not sufficient to irrigate the entire place of use. Therefore, any lack of irrigation is due to limitations of the water supply.

Injury to Other Water Rights: No issues identified. Other water users on Stockton Creek (Meadowlark Ranch and Brent Abbott) have filed similar transfers to clean up their water rights. Watermaster for WD13M was notified of application and did not respond to a request for comments.

Enlargement of Use: No issues identified. Combined limit conditions will be added to all water rights.

Local Public interest: No issues identified. BLM filed a protest against the application, arguing that the point of diversion on Stockton Creek requires a right-of-way because it is on BLM land and was reconstructed (and slightly moved) in the 1980s. On November 10, 2021, BLM withdrew its protest after Merrill Ranch successfully obtained a right of way for the short section of ditch.

Beneficial Use/Conservation of Water Resources: 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.