

MEMORANDUM

Date: April 23, 2021
To: Transfer 84782
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion, place of use, and nature of use for a 4.7 acre portion of right 35-7720. At the post-transfer place of use, two acres will be irrigated, and 7.2 AFA will be used to offset evaporative losses from a lined recreational pond that covers 3.1 acres.

Authority to File:

The applicant, Larry Bergmann, has the authority to file. Larry Bergmann signed the application. PT Elliott is the current owner of record for water right 35-7720 and associated right 1-7017. The existing place of use is still owned by PT Elliott, LLC, according to Jefferson County taxlot data. The proposed place of use and point of diversion are owned by the Bergman Family Revocable Trust, according to Jefferson County taxlot data. PT Elliott, LLC, authorized the transfer via a "Special Warranty Deed for Water Rights," included with the application. The Deed was signed by Carl Zitlau. Carl Zitlau is the registered agent for PT Elliott, LLC, according to the Idaho Secretary of State. Ownership of the right will be updated after approval, according to an Agreement for Purchase and Sale of Water Right," included in the application.

Water Right Validity:

The portion of the water right proposed for transfer is valid. It was decreed in 2004. Based on aerial imagery, IDWR had a concern that the right has not been actively used. The Applicant's Representative, Rocky Mountain Environmental Associates, provided a detailed report summarizing the irrigation under right 35-7720 over the last 15 years. Forfeiture is no longer a concern.

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 Watermaster for Water District 120 was notified of the transfer and did not oppose its approval. A simulation of the transfer was performed in ESPAM2.1. The simulation indicated that no mitigation was necessary. Impacts to all modeled reaches of the Snake River were below 2 AF/trimester.

Enlargement of Use:

No enlargement will result from this transfer's approval. Right 35-7720 is stacked with 1-7017 at the existing place of use. 1-7017 has a 3/14/1978 priority date and is diverted from the Snake River. Due to its junior priority date, it is rarely available for practical use during the irrigation season. The 4.7 acres of 1-7017 that overlapped with the transferred portion of right 35-7720 were abandoned as part of this transfer's approval, as requested in the transfer application. The applicant proposes to dry up 2.7 acres of irrigated land in order to mitigate only for evaporation from the pond (Recreation Storage component of right). Clear evidence was provided that 2.7 acres of 35-7720's historic irrigation practices would mitigate for evaporative losses from the lined pond. There are four pending transfer applications proposing to make changes to water rights 35-7720 and/or 1-7017. These four applications (84782, 84808, 84863, 84864) will be approved on the same day. The remaining portions of water rights 35-7720 and 1-7017 described on the approval documents will reflect the remaining portions after all transfers are approved.

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.