

MEMORANDUM

Date: May 5, 2021
To: Transfer 83985
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to correct the place of use for water rights 13-7858, 13-7860 and 13-7862 and to change the points of diversion to reflect current irrigation practices. There is no physical change to the place of use. The 1920 Dietrich Decree described the place of use in error. It described the place of use in Range 38 East, rather than Range 39 East. Deed confirm that the decreed range was in error. The transfer also includes an exchange of Deep Creek water, a tributary to the Bear River, for Bear River water delivered by the West Cache Canal.

Authority to File:

The applicant has provided ownership change documents that provide full chain of title for water right 13-7858, 13-7860, and 13-7862. Franklin County tax-lot data shows the applicant as the current owner of the place of use. The point of diversion that delivers the spring and Five Mile Creek water resides on Gaylin Fullers property. Application included a letter from Fuller consenting to the proposed changes. Additionally, Applicant provided a copy of a 1908 Agreement between the West Cache Irrigation Co. and certain Deep Creek water users. This agreement gives the Deep Creek users a right to use the West Cache Canal as an exchange. The original diversion from Deep Creek failed and is no longer maintained. For many years, the Deep Creek rights have been delivered through the West Cache Canal.

Water Right Validity:

The rights included in this transfer were decreed in 1920. Data from 2013 to 2020 on the Climate Engine online tool shows evidence of irrigation on the place of use. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. There are no physical changes taking place to the place of use or the points of diversion, the delivery system changed per above stated agreement. Neither the points of diversion nor the quantity authorized to be diverted will change as a result of the transfer. The transfer was advertised with no protests. The Water Master for WD11 was contacted and did not provide a response.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor volume nor irrigated acreage will increase as a result of the transfer. Conditions will be added to water right 13-7860 (the Deep Creek right) to limit the exchange to the amount of water available in Deep Creek at the original point of diversion or the amount of water entering the Bear River, whichever is less.

Local Public interest:

No issues identified.

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.