

MEMORANDUM

Date: March 30, 2021
To: Transfer 84837
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the place of use for water right 11-7663. The point of diversion will move upstream by approximately 100 yards, but will still be within the current legal description for the point of diversion (NWNW, Sec 15, T11S, R43E).

Authority to File: Application was signed by Sean Bartschi, registered agent and general partner for Bartschi Land LLLP. According to Bear Lake County taxlot records, Bartschi Land LLP owns the property at the existing and proposed places of use.

Water Right Validity: Water right 11-7663 is a statutory claim. Claimed priority date (4/15/1942) is confirmed through affidavits from people working on the farm at that time. Diversion dam on Stauffer Creek is visible in imagery from 1969. According to statutory claim, irrigation was accomplished by damming Stauffer Creek at culvert and allowing water to back up and flood a large, flat meadow area. Applicant provided pictures of the remnants of previous concrete dams at the existing point of diversion. At least 95 meadow acres can be irrigated from dam on Stauffer Creek. Irrigated place of use is confirmed by 2009, 2011, 2015 and 2017 aerial imagery. Claim describes standard irrigation season of use for the area (4/15 - 10/31). 1920 Bear River Decree establishes a season of use of 4/20 - 9/30. It is unclear how the season of use discrepancy will be handled in the upcoming BRBA. We will simply include a condition that the season of use was not verified through this transfer. This will give the BRBA Court flexibility to update season of use if needed.

Injury to Other Water Rights: No apparent issues. Point of diversion is being moved slightly upstream. There are no other recorded points of diversion or water rights near the existing or proposed points of diversion or between the proposed point of diversion and the confluence with the Bear River. The priority date for water right 11-7663 is very junior compared to the other rights in the Stauffer Creek drainage. The right holder, Bartschi Land, is unable to call against upstream senior rights and is limited to the flow bypassing the upstream senior rights.

Enlargement of Use: No issues identified.

Local Public Interest: No issues identified. The proposed transfer is part of a large stream restoration project on lower Stauffer Creek. Many years ago, the creek was straightened. The project will remove the dam (existing point of diversion) and restore the meanders to the creek. The proposed change is in the local public interest.

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.