

MEMORANDUM

Date: December 2, 2020

To: Transfer 84362

From: James Cefalo

Re: Review & Evaluation of Sufficiency of Information

This transfer application proposes to change the point of diversion for eleven rights. Water rights 22-249, 22-12279, 22-153, 22-11981, 22-13610, 22-13611 and 22-13613 were originally diverted from the Teton River through the Price-Fairbanks Ditch. Water rights 22-11973B, 22-12277, 22-13338 and 22-13788 were historically diverted through the Central Teton Canal. The Price-Fairbanks Canal and Central Canal are now obsolete. Water District 1 recently closed these canals for failure to install a measuring device. Transfer proposes to divert all of the rights through the Grand Teton Canal. According to the application, the transferred rights have already been delivered through the Grand Teton Canal for many years.

Authority to File: Application was filed by Grand Teton Canal Company and was signed by the GTCC attorney, Rob Harris. Application included consents from the various water right owners. During the transfer review, IDWR discovered that the places of use for water rights 22-12279, 22-13610 and 22-13338 have been subdivided and are no longer owned by the owners of record for the rights. Evidence available to the Department indicates that the places of use for water rights 22-12279 and 22-13338 were subdivided prior to the issuance of partial decrees in 2008. Therefore, the decreed owners (who are still the current owners) for water rights 22-12279 and 22-13338 have the authority to consent to the proposed changes. The place of use for water right 22-13610 appears to have been subdivided after the decree date. Rob Harris and GTCC were notified of the ownership issue and asked to have right 22-13610 removed from the application rather than expending time and resources to sort out the ownership issues. Water right 22-13610 can be moved to the Grand Teton Canal in a future transfer application when the ownership questions have been sorted out.

Water Right Validity: The places of use for the transferred rights have not been consistently irrigated. The transferred rights are all junior to water rights 22-277A and 22-13327 held by GTCC which authorize the diversion of more than 120 cfs. Further, Idaho's use of Teton Creek is restricted by the Roxana Decree, with part of the creek being diverted by Wyoming users during the irrigation season. For most of the summer, the flow of the creek is less than the rate authorized by the GTCC rights. Therefore, the transferred rights are only available in high water events. Forfeiture is not an issue.

Injury to Other Water Rights: No issues identified. The Price Fairbanks canal is located approximately one mile downstream of the Grand Teton Canal. The Central canal is located approximately 1/4 mile downstream of the Grand Teton Canal. As stated, transferred rights are only deliverable during high flow events. Later in the summer, when water may not be available at the original points of diversion, the transferred rights will be curtailed. Water rights on Teton Creek are governed by the Roxana Decree, which divides the creek between Idaho diversions and Wyoming diversions. Even though the rights are being moved to a Wyoming point of diversion, the Grand Teton Canal is counted as an Idaho diversion under the Roxana Decree. Therefore, the transfer will have no effect on the interstate division of water. Watermaster for WD1 was notified of the transfer and did not object to approval.

Enlargement of Use: No issues identified.

Local Public interest: No issues identified. Approval will include a condition noting that delivery through the Grand Teton Canal is subject to the provisions of the Roxana Decree.

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.