

MEMORANDUM

Date: December 13, 2019
To: Transfer 83792
From: Scott Stosich
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to rearrange the place of use to represent the addition of a pivot and the future irrigation configuration for water rights 35-2420, 35-7768, 35-8926 and 35-11213.

Authority to File:

The applicant, John & Deborah Bender Trust, is the current water right owner of record. Applicant's attorney, Robert Harris, signed the application on behalf of the applicant. The applicant owns the property at the current and proposed place of use according to Bingham County taxlot data.

Water Right Validity:

Water rights 35-2420, 35-7768 and 35-11213 were decreed in the SRBA in 2002. Water right 35-8926 was licensed in 1997. Review of 2004, 2009 and 2011 aerial photography shows growing vegetation on the acres that are being dried up. For 2015 and 2019, there is no visible evidence of irrigation for the acres proposed to be moved. Applicant assert a statutory defense to forfeiture for the non-use occurring after 2015. According to the Applicant, the transfer acres have been held unused as part of the 2015 IGWA/SWC settlement agreement, which is an approved mitigation plan. The Department does not have clear and convincing evidence of forfeiture.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. The place of use is being rearranged in close proximity to the current place of use. Neither the point of diversion nor the quantity authorized to be diverted will change as a result of the transfer. No public notice will be required since it is clear that the proposed change will not adversely impact other water rights.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither the rate, volume nor irrigated acres will increase as a result of the transfer. The place of use for all rights involved in this transfer is simply being rearranged to represent the addition of a pivot and the planned irrigation configuration.

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.