

MEMORANDUM

Date: November 5, 2019
To: Transfer 83737
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the place of use for a 35-acre portion of water right 11-7601. Applicant, Michael McMillan, proposes to move the split portion to his property. Point of diversion will not change. Split portion of water right 11-7601 will continue to be delivered through the Nuffer Ditch.

Authority to File: The 1924 Bear River Decree described certain water rights associated with the Ola Transtrum Ranch. The ranch was divided a few times over the years. In Aug/Sept 2017, the current water right owners of the Ola Transtrum rights signed a Water Right Allocation Agreement, establishing the water right amounts owned by the parties to the agreement. Private Capital Group (PCG) owned water right 11-7601 (0.80, 39.8 acres). On March 9, 2018, PCG executed a Special Warranty Deed, conveying 35 acres and 0.70 cfs of water right 11-7601 to Michael McMillan. McMillan has the authority to file the application. Ownership of the split portion of the water right will be updated in the transfer approval.

Water Right Validity: Water right is valid. Aerial photography shows consistent irrigation of the existing place of use. Transfer was approved in February 2018, establishing the existing place of use for water right 11-7601. Water right 11-7601 shares a 324-acre combined place of use with water right 11-7597.

Injury to Other Water Rights: No issues identified. Split portion of water right 11-7601 will continue to be diverted through the Nuffer Ditch.

Enlargement of Use: No issues identified. When the transfer application was being prepared, I asked TJ Budge, attorney for PCG, to identify the 35 acres to be removed from the existing place of use. Mr. Budge has not identified the 35 acres. Water right 11-7601 (the portion still owned by PCG) is currently in the WSB. In the absence of a response from PCG, the Department removed the acres from the right that are closest to the Bear River. Water rights 11-7601 and 11-7597 share a 324-acre combined place of use. 35 acres are moving to the McMillan property. The combined place of use will be reduced to 289 acres. Water right 11-7597 has been added to the transfer as an associated right to reduce the combined place of use and to update conditions.

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.