

MEMORANDUM

TO: Transfer No. 83023
FROM: Patrick Kelly
DATE: 8/5/2019
RE: Evaluation of Application

Summary of Information Submitted Elizabeth Ann Nettleton filed transfer no. 83023 to add a third point of diversion to water rights 61-238 & 61-284. The new POD is located within T4S R8E S13 NWSW on Bennett Creek. The application proposes to combine the two rights to create a 430.4 ac POU within a 575 ac PPU.

Comment letters were sent to B61C Watermaster and Ark Properties LLC. Ark Properties filed a protest but later withdrew the protest on 4/30/19.

On 6/11/19, IDWR requested additional information recognizing that senior water rights exist upstream from the new proposed POD. Also, new POD's may be considered enlarged if water is more readily available/reliable. Mr. Shaw responded to this letter on 8/1/19 by stating that Water District 61C is in effect and that conditions that limit the amount of water at the new POD to times when available at the original POD would be acceptable.

Dave Shaw of ERO Resources Corp is the Representative to the Application. Mr. Shaw can be reached at 4001 E Main St., Emmett, ID 83617 or 208-365-7684.

Authority to File Water rights 61-238 & 61-284 are in the name of Ms. Nettleton and current county taxlot data shows Ms. Nettleton owns the property pertinent to the water rights.

Water Right Validity Water rights 61-238 & 61-284 were decreed in Oct of 2000. 2017 aerial imagery and ArcMap tools were used to measure irrigation use equal to at least 431 acres within the Nettleton property. Concerns over validity are not present at this time.

Overlap Analysis Water rights 61-238 & 61-284 are the only water rights on the property. No other rights should be considered for this transfer.

Injury to Other Water Rights None anticipated. Irrigation use has been occurring as far back as I can observe using available imagery. Ark Properties is the neighboring user and withdrew their protest. No other users exist between the current and proposed POD.

Enlargement of Use Changes to the limits already authorized by the water rights are not occurring and diversion from all three diversions will still be restricted to 7.04 cfs post transfer. The department has no further information regarding a losing or gaining reach to evaluate enlargement at this site. We will not presume that a POD at the proposed location is more available since they are less than 2 miles apart. According to topographic analysis, there are no significant tributaries between locations.

Local Public Interest No information has been made available to suggest a conflict with public interest.

Beneficial Use/Conservation of Water Resources The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary Assuming other information not yet discovered does not contradict the above analysis, the application can be approved as reflected by the draft approval.