

MEMORANDUM

Date: July 2, 2019
To: Transfer 83280
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion and place of use for an 88.9-acre portion of right 35-2824. In a previous contested transfer application (which was withdrawn), the parties determined that 75 acres of right 35-2824 were used in combination with shares in Aberdeen-Springfield Canal Company. This application proposes to move all of the 75 combined acres. At least 75 acres of the proposed place of use are covered by shares in ASCC.

Authority to File:

The current owners of record for water right 35-2824 are Kip and Brandi Hunter. In May 2018, Hunters sold the existing place of use for water right 35-2824 to BCF, LLC. The warranty deed did not reserve water right 35-2824 from the conveyance. A Buy/Sell Agreement between Hunter and BCF states that only 29 acres of water right 35-2824 was included in the conveyance to BCF. Daniel Bair from BCF LLC confirmed that Hunter retained all but 29 acres of the water right. Bair also confirmed that he does not object to the approval of Transfer 83280 because it keeps at least 29 acres of the water right on his property. It is likely that the 29 acres will be conveyed from BCF back to Hunter in the near future. The applicant, LCSC Enterprises, provided a copy of an Agreement for Purchase and Sale of Water Right to purchase all of water right 35-2824 from Hunters. Application was signed by Blair Dance, manager for LCSC Enterprises. Ownership will be updated through a separate process after the transfer approval.

Water Right Validity:

The water right is valid for transfer. It was decreed in 2012, and leased to the Water Supply Bank from 2012 - 2014. Aerial photography shows consistent irrigation of the existing place of use since that time.

Injury to Other Water Rights:

No apparent issues. The transfer was advertised and no protests were received. The watermaster for Water District 120 was notified of the application and did not oppose it. A simulation of the transfer's impacts on the Snake River was performed in ESPAM 3.3. The simulation returned impacts to modeled reaches that were all below 0.4 AF/trimester.

Enlargement of Use:

No apparent issues. The water right was decreed on 121 acres. It was decreed with a condition combining its water with Aberdeen Springfield Canal (ASCC) shares. A review of the right's backfile indicates that shares existed on 75 of those 121 acres. Transfer approval will include condition requiring combination with 75 ASCC shares and a limitation on removing shares from the acres. 13.9 acres at the proposed place of use have not been combined with ASCC shares in the past.

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.

Cefalo, James

From: Daniel Bair <idahoappraiser@msn.com>
Sent: Thursday, July 18, 2019 4:09 PM
To: Cefalo, James
Subject: RE: Transfer 83280 for Water Right 35-2824

I do not object to the transfer.

From: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Sent: Thursday, July 18, 2019 1:54 PM
To: idahoappraiser@msn.com
Subject: Transfer 83280 for Water Right 35-2824

Daniel,

Ground water right 35-2824 authorizes 121 irrigated acres. You (BCF LLC) purchased most of the existing place of use for water right 35-2824 from Kip Hunter in May 2018. Shortly thereafter, you filed a notice of change of water right ownership for a 29-acre portion of water right 35-2824. I have a copy of a Buy/Sell Agreement between you and Kip Hunter that states that 29 acres (0.51 cfs) of water right 35-2824 was included in the sale of the property from Hunter to BCF LLC.

On May 14, 2019, LCSC Enterprises LLC filed Application for Transfer 83280, which proposes to move an 88.9-acre portion of water right 35-2824 to a different property. The application was not protested and is ready for approval. If Transfer 83280 is approved, there would still be 32.1 acres of water right 35-2824 remaining at the current place of use for the right. In other words, at least 29 acres of water right 35-2824 will still be associated with your property. A draft copy of the approval document is attached.

Before moving forward with approving Transfer 83280, I would like you to confirm that you have no objections to the transfer. This can be done by responding to this email. Please include your full contact information on your response. Again, 32.1 acres of water right 35-2824 will continue to be appurtenant to your property if Transfer 83280 is approved. I have not contacted your attorney, Jeremy Ferris, about the proposed transfer. In previous conversations, he had asked me to notify you or him if there were any changes to water right 35-2824. Feel free to forward this email to Mr. Ferris and discuss this with him, if needed.

James Cefalo
Water Resources Program Manager
IDWR Eastern Region
(208) 497-3784