

MEMORANDUM

Date: July 5, 2019
To: Transfer 83246
From: Michael Holliday
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use of four Dempsey Creek water rights. The place of use is primarily on a golf course, but the rights overlap 32 subdivision lots. This transfer proposes to move the rights off the lots so that the rights lie fully on golf course property.

Authority to File:

The applicant is the current owner of record of the four rights included in this transfer. Bannock County tax lot data show that the 32 subdivision lots overlapping the current place of use are not owned by the applicant. Several of the lots were purchased prior to the filing of the SRBA claims in 1990, and those lot owners did not file competing claims in the SRBA. No ownership changes have ever been filed by any of the 32 lot owners. The applicant indicated that the lots are watered with ground water rights 29-8080 and 29-13732 and have no infrastructure for surface water delivery. The application was advertised to give lot owners an opportunity to protest if they believed that had an ownership interest in the surface rights. No protests were filed. The application was signed by an attorney authorized to sign on behalf of the applicant.

Water Right Validity:

Three of the four rights were decreed in the SRBA in 2004. Right 29-13726 was based on a late claim for an extended season of use on the same acres and was decreed in 2009. Review of post-decree photography for 2009, 2011, and 2015 shows growing vegetation on the decreed place of use. Photography from other years shows evidence of irrigation on most of the place of use. Forfeiture is not an issue.

Injury to Other Water Rights:

Other rights will not be injured by the proposed change in place of use. The place of use is simply being rearranged to match golf course acreage. Neither the point of diversion nor the quantity authorized to be diverted will change as a result of the transfer. The watermaster of Water District 29 reviewed the application and did not oppose its approval.

Enlargement of Use:

The 32 Thunder Canyon subdivision lots (which overlap the current place of use of the rights being transferred) receive water from licensed ground water rights 29-8080 and 29-13732. When the applications for the two ground water rights were filed in 1991 and 2005, the applicants indicated there were no other rights associated with the proposed place of use. Each subdivision lot is allowed up to 13,000 gpd and up to ½ acre of irrigation. It appears that when the golf course/subdivision idea was born, the intent all along was to use the surface water rights on the golf course and ground water rights on the subdivision lots. While the surface water rights were used in 1987 at the current location of the lots in the subdivision, they ceased to be used there once the ground water rights were developed. After the transfer, the use of all the rights will more closely match the way they have been used since before license 29-8080 was issued in 2005. Therefore, the proposed change will not result in enlargement because the total acreage and diversion rate authorized for irrigation under the rights will not increase.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issues identified.

Effect on Economy the Local Area:

No issues identified.

Effect on Agricultural Base of the Local Area:

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.