

MEMORANDUM

Date: February 8, 2019
To: Transfer 82991
From: Scott Stosich
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the place of use and ownership for water right 21-33C. The existing 231.2-acre place of use for 21-33C is shared with two other water rights, 21-10587 and 21-10588, which have a total authorized irrigated acreage of 231.2. Applicant proposes to change the place of use for 21-33C to a 3 acre property. The water right was conveyed to the applicants from the current water right holder, Wilcox Brothers LLC, through a quit claim deed. According to the applicant's representative, water right 21-33C was supposed to be withheld from the sale agreement between the two parties in 2002, but the reservation was inadvertently omitted from the warranty deed. The two parties, Wilcox and Seeley, agree that water right 21-33C was to be withheld for use on the 3-acre Seeley property at the time of the sale. The quit claim deed was prepared to confirm the reservation of water right 21-33C. The ownership of 21-33C will be updated to Dwayne and Marie Seeley in the transfer approval.

Authority to File:

The applicants, Dwayne and Marie Seeley, are owners of Fall River Hideaway, LLC which owns the property of the proposed place of use. The applicant is also the new owner of water right 21-33C according a quitclaim deed submitted with this transfer, and signed by the current water right owner of record, Terry Wilcox, member of Wilcox Brothers LLC.

Water Right Validity:

The water right included in this transfer was decreed in the SRBA in 2009. Review of 2013 and 2017 aerial photography shows growing vegetation on the current place of use. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

Other water rights will not be injured by the proposed change. The place of use for water right 21-33C is being moved to cover the applicant's 3 acre property, and the two other irrigation rights overlapping the property, will be reduced by 3 acres. Neither the point of diversion or quantity authorized to be diverted will change as a result of the transfer. Since the proposed changes will not impact other water rights, no public notice is required.

Enlargement of Use:

The proposed changes do not appear to result in enlargement since neither the rate, volume or irrigated acres will increase as a result of the transfer. The place of use for water right 21-33C is being reduced to 3 acres and overlapping water rights will be reduced by 3 acres.

Local Public interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

Application proposes to consolidate water right 21-33C (0.24 cfs) on a 3-acre parcel. This equates to 0.08 cfs per acre. Water is delivered through the Curr Ditch. The Curr Ditch diverts more than 45 cfs of privately held water rights. Water rights are occasionally rotated between water users. There are significant losses in the Curr Ditch. Because of the small acreage, the water user would reasonably be expected to use 0.03 cfs per acre (0.09 cfs total). Applicant has not provided any evidence supporting a

diversion rate higher than 0.03 cfs per acre. The additional 0.15 cfs will be identified as water for conveyance loss and will be left on the water right and in the ditch to prevent injury to other water users. Water right will be limited to 0.03 cfs per acre.

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.