

MEMORANDUM

Date: April 16, 2018
To: Transfer 82220
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer changes the place of use and adds points of diversion to all or a split portion of 10 water rights. It also changes the point of diversion for some of the water rights. The ownership of all rights contemplated in this transfer were updated to Hanging T Farms.

Authority to File:

The applicant, Hanging T Farms, has the authority to file.

The application was signed by Tom Willie. According to the Idaho Secretary of State's website, Tom Willie is a Member of Hanging T Farms.

At the time of transfer submittal, rights 15-7189 and 15-7231 were in the name of Hanging T Farms. Right 15-2052C was in the name of Timothy Willie. The remainder of the rights are discussed briefly below, all to the point at which they were sold to Timothy Willie. Instrument nos. 143470, 143471, and 143472 transfer all of the land covered by the rights from Timothy Willie to Willie Cattle Company, and instrument no. 15222 transfers that same land from Willie Cattle Company to Hanging T Farms.

Rights 15-2019A & B are discussed in a document included in the application. In brief, Instrument No. 131154 describes the sale of 15-2019B to Timothy Willie from Don and Carlean Tubbs. Instrument no. 118850, a quitclaim deed from the Farmer's Home Administration to Carl and Carol Willie, describes the sale of 15-2019A. Instrument no. 123791 describes the sale of 15-2019A from Carl and Carol Willie to Timothy Willie.

Instrument No. 131154 also describes the sale of right 15-2052D from Carlean and Don Tubbs to Timothy Willie.

The sale of a portion of 15-4023 from Jenkin Thomas to Timothy Willie is described in Instrument Nos. 133707 and 133271. Jenkin Thomas is still listed as an owner on the remainder of 15-4023 due to unresolved ownership issues in the W1/2 SE 1/4 of Section 26 and the NWNE of Section 35, both of T14S, R35E. The remainder of right 15-4023 is owned by multiple parties, including Blair Palmer. The evidence available to the Department (Instrument Nos. 56225 and 118850) indicates that right 15-2014 remains in its licensed place of use, of which Carl and Carol Willie owned 4.5 acres. Instrument no. 123791 describes the ownership change of the right to from Carl and Carol Willie to Timothy Willie. At the time of transfer submittal, right 15-2061 was owned by Jenkin Palmer. Instrument no. 133270 details the sale of the right from Jenkin Palmer to Timothy Willie. The sale of 15-2037A from LaVern Smith to Timothy Willie is detailed in Instrument Nos. 95922, 125683, and 131154.

Water Right Validity:

The water rights are valid.

They were licensed at various times, with the exception of 15-4023, which is a statutory claim.

Review of the licensed rights indicates consistent irrigation by the rights either at their licensed place of use, or at the place of use described in this transfer.

Affidavits in the claim file of right 15-4023 testify to its priority date and place of use. A field examination was performed on the right as part of Transfer 81294. That field exam confirmed the water right's rate and volume. The right is therefore valid for transfer.

Injury to Other Water Rights:

No other water rights will be injured as part of this transfer.
The transfer was advertised and no protests were received.

Enlargement of Use:

No enlargement issues resulting from this transfer's approval are apparent.

Rate, volume, nor irrigated acres are authorized to increase.

A combined limit encompassing the 10 rights contemplated in this transfer was included as part of the transfer's approval.

An additive combined place of use was removed from rights 15-2019B and 15-2052D.

Rights 15-2019B, 15-2037A, and 15-2052D overlapped on 160 acres in the SW 1/4 of Section 36, T14S, R35E, at the time of transfer submittal. A combined limit might have been appropriate. In deference to the combined limit that encompasses all 10 rights, a combined limit including rights 15-2019B, 15-2037A, and 15-2052D was not added as part of this transfer.

At the time of transfer submittal, right 15-2014, from which right 15-7437 was split, had no specified season of use. The standard season of use was added to 15-7437 as part of this transfer.

Similarly, 15-2037A had no specified season of use at the time of transfer submittal. The standard season of use was added to the right as part of the transfer's approval.

The transfer was amended to a total diversion rate of 7.82 cfs, up from the original total diversion rate of 7.72 cfs. The extra 0.10 cfs derived the split of right 15-4023.

Due to the lack of evidence regarding claim 15-4023's place of use at transfer submittal, the right was left in full on the eight Valley View subdivision lots in the W 1/2 of Section 26 and the NWNE of Section 35.

The transfer was therefore approved for 7.79 cfs, as opposed to the requested 7.82 cfs.

The amended transfer was not readvertised because the additional rate (0.07 cfs) was insignificant, amounting to less than 1% of the original transfer's overall rate.

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.