

MEMORANDUM

Date: February 20, 2018
To: Transfer 82099
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This is one of two transfers filed simultaneously. Together they implement two ownership agreements, ultimately swapping 0.8 acres of Spring right 29-4160 from Donald Hall to Douglas Johnson in exchange for 0.8 acres of Marsh Creek right 29-4161B.

This transfer also serves to change the place of use for right 29-4160 and the Johnsons' portion of right 29-4161B, as well as change and add a point of diversion to the Johnsons' portion of right 29-4161B.

Authority to File:

The applicants, Doug and Alexia Johnson ("the Johnsons"), have the authority to file.

At the time of transfer submittal, both water rights were in the name of Debra and Donald Hall ("the Halls"). A Warranty Deed, included with the application, demonstrates the sale of the post-transfer place of use from the Halls to the Johnsons.

A 10/3/2017 ownership agreement ("Ownership Document") declares that the Halls have no interest in right 29-4160 (Spring), instead transferring that interest to the Johnsons. The Halls retain interest in right 29-4161B (Marsh Creek). A 12/2/2017 agreement between Donald Hall and Douglas Johnson clarifies that 10/3/2017 agreement. It indicates that the Halls swapped their 0.8 acre place of use of right 29-4160 for 0.8 acres of the Johnsons' place of use of right 29-4161B. As a result, the Johnsons own all of 29-4160 (Spring), and the Johnsons and the Halls split right 29-4161B (Marsh Creek).

Bannock County taxlot data indicates that Whittington Estate LLC owns a portion of the pre-transfer place of use for both rights. The Ownership Document declares that the Whittington Estate LLC has no interest in either right.

According to Bannock County taxlot data, the applicants own the post-transfer Marsh Creek points of diversion.

Water Right Validity:

The water rights are valid for transfer.

They were decreed in 2005.

Review of 29-4161B's decreed place of use demonstrates consistent irrigation.

In companion transfer 82100, Donald Hall declares that, starting in the 1990s, he used water from right 29-4160 on land in the SWNW of Section 27, as opposed to the decreed place of use. Aerial photography corroborates his assertion. 29-4160 is therefore valid for transfer.

Injury to Other Water Rights:

No water rights will be injured as a result of this transfer.

The transfer was advertised and no protests were received.

The Watermaster for Water District 29H was notified of the transfer and did not oppose it.

Enlargement of Use:

No enlargement of use will result from the two transfers' approvals.

When taken together, they do not authorize an increase in rate or irrigated acres.

Because the Spring's place of use is being combined with a senior Marsh Creek right, the Department had concerns regarding the Spring's present-day discharge. Both Doug Johnson and Donald Hall asserted verbally that the Spring's discharge remains adequate for irrigation.

29-4161B is presented in this transfer's approval documents as it appears in Transfer 82100's approval.

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.