

MEMORANDUM

Date: July 5, 2017
To: Transfer 81590
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the nature of use for water rights 35-2491, 35-7005 and 35-7648 from irrigation to mitigation by non-use. The rights are currently located within the boundaries of Bingham GWD. The applicants would like to use the water rights to mitigate for irrigation activities occurring in Aberdeen-American Falls GWD. As a member of AAFGWD, applicants have an existing obligation to mitigate under the SWC/IGWA Settlement Agreement. Transfer approval refers to the mitigation obligation but does not calculate the total mitigation value of holding the rights unused.

To satisfy its reduction obligation under the SWC/IGWA settlement agreement, AAFGWD has adopted a tier system, restricting the amount of water available for diversion by patrons in the district. Applicant provided documents from AAFGWD, showing that the Gehring companies are limited to 1.8 af/acre on 6,145 acres. Gehring also rents property from other individuals throughout the district. Transferring these rights into the district and holding them unused could increase the amount of water available to Gehring by as much as 630 af. This could bring the total water supply closer to 2 af/acre. Gehring has adequately demonstrated a mitigation obligation.

Authority to File:

The applicants, Big J Farms LLC, JAG Farms LLC, and Gehring Investments LLC, have the authority to file.

JAG Farms LLC and Big J Farms LLC are the owners of record for the three rights.

According to Bingham County taxlot data for the various parcels, Big J Farms LLC or JAG Farms LLC owns the land from which the water rights are being removed. Gehring Investments LLC or JAG Farms LLC owns the land onto which the rights are being moved.

The application was signed by Randall Budge, who was authorized to sign for the three entities as evidenced by a "Special Power of Attorney for Water Rights" ("Power of Attorney") submitted with the application.

The Power of Attorney was in turn signed by Jordan and Jared Gehring. According to the Idaho Secretary of State's website, Jordan Gehring is the only registered agent for Big J Farms, and Jared Gehring is the only registered agent for JAG Farms. They are both listed as Managers of Gehring Investments.

Water Right Validity:

The water rights are valid. The rights were decreed in 2002. From 2006 through 2014 the rights were enrolled in a CREP program. In 2015 and 2016, the rights were leased to the Idaho Water Supply Bank.

Injury to Other Water Rights:

No other water rights will be injured by this transfer's approval. The Watermaster for Water District 120 was notified of the transfer and did not provide comment. An ESPAM2 analysis was run on the transfer. Steady state and transient state impacts were identical. Steady state impacts required no mitigation.

Enlargement of Use:

No enlargement of use will result from this transfer. The former irrigation right will be set aside for mitigation. Total authorized irrigation on the ESPA will decrease as a result of the transfer'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.