

MEMORANDUM

Date: May 30, 2017
To: Transfer 81272
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer combines rights 15-2032, 15-7263, and a portion of right 15-2030A, into a single place of use with two points of diversion. Water right 15-7263 is a statutory claim.

Authority to File:

The applicant, Carol Stevens (formerly Carol Rindlisbacher), has the authority to file. According to the Department's records, she was the sole owner of right 15-7263 when the transfer was filed.

The current owners of water right 15-2032 are Chad Rindlisbacher and Carol Rindlisbacher. Water right 15-2032 will be updated to list Carol Stevens as the sole owner of the right. A settlement agreement between Carol Stevens and her ex-husband, Chad Rindlisbacher, was submitted with the application. Section E of the agreement gives Carol Stevens sole ownership of right 15-2032 and authorizes her to transfer the right onto her property.

The current owners of water right 15-2030A are J Stuart Davis and Nephi Ipsen. The applicant provided a chain of deeds back to J Stuart Davis for a portion of right 15-2030A. The land described in the deeds is located in the NWNW of Section 26, and the SWSW of Section 23, T14S, R35E.

The applicant owns the land from and onto which the water rights are being rearranged, with the exception of the NWSE of Section 23, T14S, R35E. That land is owned by Chad Rindlisbacher. The applicant's authority to remove right 15-2032 from that land is stipulated by Section E of the settlement agreement. Chad Rindlisbacher has filed a similar transfer, moving his water rights onto his property.

Water Right Validity:

The water rights are valid.

Right 15-2032 was licensed in 1979. The evidence available to the Department indicates that the right has been consistently used since it was licensed.

Right 15-2030A was split from right 15-2030 as part of transfer 965. Evidence available to the Department indicates that the right has been used consistently.

Right 15-7263 is a statutory claim with a priority date of 6/1/1949. It lists a point of diversion in the SESE of Section 22. This is the same well from which license 15-2030 began diverting when the well was drilled in 1943. It appears that this statutory claim was filed to include additional ground irrigated by the well, but not covered by 15-2030. Evidence available to the Department demonstrates that 15-7263's claimed priority date is valid, and that the right has been used consistently since it was developed.

Injury to Other Water Rights:

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

Enlargement of Use:

This transfer will not result in an enlargement of use. Neither rate nor irrigated acres are authorized to increase.

Right 15-7431 (the split portion of right 15-2030A) is limited to 55 acres and 0.86 cfs, as explained in the "Place of Use Correction" memo in this transfer.

As discussed in a separate memo titled "Point of Diversion Correction," the pre-transfer point of diversion for right 15-2030A is inaccurately described. Its correct location is in the SESE of Section 22.

Evidence available to the Department indicates that on 6/1/1949, the well in the SESE of Section 22 could produce at least the 4.53 cfs licensed and claimed from it. The 1945 field examination found that the well was discharging into a ditch, pumping from a level of 30 ft. Based on the affidavits submitted with this transfer, the pump was 60 hp. A 60 hp pump lifting water from 30 feet and discharging into a ditch would yield slightly under 4,000 gallons per minute (see attached theoretical discharge calculation).

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.

MEMORANDUM

Date: May 23, 2017
To: Transfer 81272
From: Cooper Fritz
Re: Point of Diversion Correction

Timeline

7/28/1943 – Application for Permit 15-2030 approved, POD listed NENE of Section 27.
1943 (no exact date) – Well drilled, according to the Application for Transfer 965.
6/25/1945 – Proof of Beneficial Use for 15-2030 was received, POD listed NENE of Section 27.
7/10/1945 – License Examination for 15-2030, POD listed NENE of Section 27.
3/19/1946 – License 15-2030 approved, in the names of Nephi Ipsen and J Stewart Davis, POD listed NENE of Section 27.
6/1/1949 – Claimed priority date of right 15-4006, which overlaps on land served by 15-2030 and lists a single POD in the SESE of Section 22; right 15-7263 was split from 15-4006 in 2004.
1954 (no exact date) – Earliest physical recollection of well, POD listed in the SESE of Section 22, found in affidavits submitted with Transfer 81272.
7/12/1961 – Application for Transfer 965. Applicant refers to a “shared well drilled in 1943,” POD listed as NENE of Section 27.
2/2/1976 – Claim 15-4006 filed with IDWR.
8/10/2016 – Application for Transfer 81272 filed, listing the point of diversion in the SESE of Section 22.
10/28/2016 – Examination of the well as part of Transfer 81272.
12/27/2016 – Affidavits regarding the well’s 1954 location in the SESE of Section 22 received as part of Transfer 81272.

Right 15-2030 was licensed on 3/19/1946 in the names of Nephi Ipsen and J Stewart Davis. It listed the point of diversion in the NENE of Section 27.

On July 12, 1961, Nephi Ipsen filed Application for Transfer 965, asserting that his land in the NWSE of Section 27 was omitted from the license. The Application stated that the point of diversion was a shared well drilled in 1943, during the right’s development period. It listed the well in the NENE of Section 27, the same location listed on the license.

On 6/1/1949, right 15-4006 was claimed to have started serving much of the same land covered by 15-2030 from a single well in the SESE of Section 22.

Affidavits submitted as part of Transfer 81272 indicate that a well in the SESE of Section 22 has been used on the 160 acres centered on the corner of Sections 22, 23, 26, and 27 (ground covered by 15-2030 as licensed, and 15-4006 as claimed) since at least 1954.

Recollections from 1954 of the well in the SESE of Section 22 occur in time between the licensing of right 15-2030 and Application for Transfer 965, both of which list the well in the NENE of Section 27.

License 15-2030, claim 15-4006, affidavits, and transfer 952 all reference a single well serving the land centered on the corner of Sections 22, 23, 26, and 27, however, they disagree on the well’s legal description.

A 2016 field exam of the well serving the lands centered on the corner of Sections 22, 23, 26, and 27 confirmed its location in the SESE of Section 22 with a GPS point.

Evidence available to the Department indicates that the licensed point of diversion for right 15-2030, in the NENE of Section 27, T14S, R35E, was in error. The actual point of diversion for the right has always been the well in the SESE of Section 22, T14S, R35E. There is no evidence to suggest that a well in the NENE of Section 27 ever physically existed.

MEMORANDUM

Date: May 23, 2017
To: Transfer 81272
From: Cooper Fritz
Re: Place of Use Correction for 15-2030A

Timeline

3/19/1946 – License 15-2030 approved in the names of Nephi Ipsen and J Stewart.
6/1/1949 – Priority date of Statutory Claim 15-4006; together rights 15-2030 and 15-4006 combine for 200 acres.
7/12/1961 – Application for Transfer 965 filed. Nephi Ipsen asserts his land in the NWSE of Section 27 was omitted from the license. 15-2030 split into 15-2030A and 15-2030B.
8/15/2001 – Application for Transfer 69266 filed. It included rights covering the land in the NESW and SWNE of Section 26, but did not include the point of diversion in the SESE of Section 22.

Right 15-2030 was licensed on 3/19/1946 in the name of Nephi Ipsen and J Stewart Davis. It listed 115 acres covered by an irrigation well in the NENE of Section 27. That point of diversion description was found to be in error, as discussed in a separate memo titled "Point of Diversion Correction." The correct description is the SESE of Section 22.

On 1/30/1976, Statutory Claim 15-4006 was filed, claiming a priority date of 6/1/1949. It listed a point of diversion in the SESE of Section 22, the same well from which 15-2030 was diverted. 15-4006 claimed a priority date of 6/1/1949 and listed 75 acres previously covered by 15-2030, as well as an additional 85 acres, bringing the total covered by the two rights to 200 acres.

On 7/12/1961, Nephi Ipsen filed Application for Transfer 965, asserting that his land in the NWSE of Section 27 was omitted from license 15-2030. As a result of Transfer 965's approval, right 15-2030 was split into 15-2030A and 15-2030B.

15-2030B covers 40 acres in the NWSE of Section 27.

15-2030A covers all of the land that 15-2030 covered as licensed. However, the 20 acres each in the NESW and SWNE of Section 26 should have been removed as part of the approval of Transfer 962 in order to avoid enlargement issues. As discussed below, the evidence suggests that those 40 acres were never irrigated by the well in the SESE of Section 22 and that they were included on the original license in error.

As part of Application for Transfer 965, Mr. Ipsen stated that there was "no change in the water delivery system," only an update to the recorded water right. Although none of the affidavits submitted with Transfer 81272 mention the well serving land in the NWSE of Section 27, they also do not mention lands in the NESW and SWNE of Section 26. In a telephone conversation with Tim Edwards after the submittal of his affidavit, he specifically stated that, at least since 1954, the well has not served the lands in the NESW and SWNE of Section 26.

Additionally, the lands in the NESW and SWNE of Section 26 are covered by numerous water rights from surface and groundwater sources. On August 15, 2001, Transfer 69266 was filed, the goal of which was to "create a permissible place of use to reflect actual irrigation practices" on the land the NESW and SWNE of Section 26. Right 15-2030A was not included. Further, two groundwater points of diversion were listed in that transfer, neither of which were in the SESE of Section 22.

For rate calculation purposes, when splitting right 15-7431 from right 15-2030A, the 40 total acres located in the NESW and SWNE were removed. $1.15 \text{ cfs} / 75 \text{ correctly licensed acres} \times 55 \text{ acres for split} = 0.84 \text{ cfs for split}$.