

MEMORANDUM

Date: November 30, 2016
To: Transfer 81294
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer rearranges the place of use for right 15-4023 in Sections 22 and 23 of Township 14 South, Range 35 East. Water right 15-4023 covers three separate properties and has at least three separate owners. The applicant, Chad Rindlisbacher, seeks to rearrange the place of use for his portion of the right, without splitting the water right.

Authority to File:

The applicant, Chad Rindlisbacher, has the authority to file. He is already a listed owner on the water right and has demonstrated ownership of the 160 acres of water right 15-4023 involved in this transfer. Chad and his ex-wife Carol Stevens were owners of 160 acres of water right 15-4023. Chad provided a copy of a divorce settlement agreement dispensing the ownership of land and water rights. Chad now owns the 160 acre portion of water right 15-4023 and seeks to move it onto his property, stacking it with water right 15-7312. Carol now owns water right 15-2032. She has filed transfer application 81272 to move that right fully onto her property.

According to Oneida County taxlot data, the Chad owns the property at the new place of use, and Carol Stevens owns the property from which the water right was removed. A Stipulation to Settlement was included as part of the application. Paragraph E in that document specifically allows the applicant to move the right from Carol Stevens' property to his. Based on the settlement agreement (court order), Carol will be removed as a current owner of water rights 15-4023 and 15-7312.

Water Right Validity:

The water right is valid. Water right 15-4023 is a statutory claim, describing a priority date of 1941, the diversion of 2.40 cfs and 624 acre-feet and the irrigation of 480 acres.

Four affidavits in the backfile of the water right, all signed in 1978, testify to the fact that water from the well had been used on the lands described in the place of use since it was drilled in April of 1941.

Three of the affidavits indicate that the water was used on a total of approximately 365 acres within the 480 acre place of use described in the claim. As such, an acre limit of 365 was placed on the water right as part of this transfer.

A well driller's report, stating that the well was completed in April of 1941, was also included in the backfile. Evidence available to the Department, including aerial photography, indicates that the lands have been consistently irrigated since April of 1941.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer. The point of diversion is not changing.

Enlargement of Use:

This transfer will not result in an enlargement of use.

Prior to the transfer, the right overlapped 15-2032 in Sections 22 and 23 of T14S R35E. When combined, the rights provided less than 0.02 cfs/acre on those lands. However, over the course of a standard

irrigation season their rate would yield 3.5 afa/acre. At the post-transfer place of use in those same Sections, the water right will overlap with 15-7312. As with the overlap of right 15-2032, when combined with right 15-7312 the rights will not provide 0.02 cfs/acre, but their rate would yield 3.5 afa/acre over the course of a standard irrigation season.

The portion of right 15-4023 remaining in the NWSE of Section 23 is overlapped by 15-2032, but combined limits were not placed on the two rights because a companion transfer, Transfer 81272, removes the right 15-2032 from that quarter-quarter. The same number of acres irrigated prior to transfers 81294 and 81272 will be irrigated after the transfers. There will be no enlargement of acres. Water rights 15-4023 and 15-2032 will be unstacked, but will be stacked with other existing ground water rights. The remaining land covered by right 15-4023 is overlapped by multiple water rights. However, at the time of this transfer's approval, evidence was insufficient to justify combined limits on those lands.

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.