

MEMORANDUM

Date: August 17, 2016
To: Transfer 81011
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer rearranges the place of use for portions of a group of eight Big Lost River rights that were decreed as overlapping rights, and combines the split portions with the entirety of Big Lost River right 34-253A, which partially overlapped the split portions of the eight rights. An overlapping groundwater right, 34-2489, is rearranged in companion Transfer 81010. Ownership of the eight rights, eight split portions, and four associated water rights were updated through this transfer. Right 34-13581 was not able to be updated through the department's transfer processing software and was therefore updated manually.

Authority to File:

The applicant, Brett Williams, has the authority to file the transfer and update ownership. At the time of transfer submittal, the group of eight rights and associated water rights 34-7A, 34-8A, 34-10634, and 34-13581 were in the name of Leon L. and June T. Williams. Leon Williams's certificate of death was submitted along with his will. The will indicated that June T. Williams preceded him in death. Article 2.1 of the will left all of the water rights to Brett Williams. Right 34-253A was in the name of Brett or Trudy Williams.

Brett Williams is the owner of the land from and onto which the water rights will be moved with two exceptions, according to Custer County taxlot data. The first exception is in the SWNE and SENE of Section 18, T06N, R26E, owned by Carole and Gene Erdman and discussed in the Water Right Validity section. The second is two acres in Section 19, T06N, R26E, owned by Loy and Lana Pehrson. An "Authorization to Apply Water Rights" signed by Mr. and Mrs. Pehrson was included as part of the application.

Water Right Validity:

The water rights are valid.

They were decreed in 2001. Review of post-decree aerial photography indicates consistent irrigation. An error in the decree was corrected as part of this transfer. The decree placed the group of eight rights in the SWNE and SENE of Section 18, as opposed to Lot 2 (SWNW) and SENW. Evidence of the mistake are combined limits placed on groundwater right 34-2489, which was decreed correctly, that included the group of eight rights. The eight Big Lost River rights also contained combined limits that included right 34-2489. Further, the land in the SWNE and SENE of Section 18 is entirely covered by rights 34-114D, 34-507, 34-856D, and 34-2430 at a rate of 0.027 cfs/acre. The condition limiting rights 34-114D, 34-507, 34-856D, and 34-2430 does not include the group of eight rights.

Direct notice of the transfer was provided to Gene Erdman, the owner of the property in the SWNE and SENE of Section 18, to the address on file with the Department. It was returned as undeliverable. However, in a phone conversation with Mr. Erdman on 8/18/2016, he agreed that the rights in Leon Williams's name were mistakenly decreed on his property.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer.
The Watermaster of Water District 34 was notified of the transfer and did not oppose it.

Enlargement of Use:

No enlargement of use will result from this transfer's approval.
Rate nor irrigated acres are authorized to increase. In fact, the transfer reduces the irrigated acres authorized by the eight overlapping rights and right 34-253A from 800 acres to 744.6 acres.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222.