

MEMORANDUM

DATE: September 25, 2015

TO: Water Right File 37-22252

FROM: Shelley W. Keen SWK

RE: Place of Use

This morning Travis Thompson, attorney for Dry Lot LLC, called to discuss the place of use description for Water Right 37-22252. The place of use includes 28 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28, Township 3 North, Range 18 East. The map attached to the license outlines the 28-acre area. Outside the area outlined on the map is a small, triangle-shaped parcel Dry Lot LLC may acquire from The Valley Club Inc. Travis wanted to know if the triangle-shaped parcel could be irrigated under Right 37-22252 as long as no more than 28 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28 is irrigated.

We reviewed Transfer Processing Memorandum No. 24, which states on page 6:

An application for transfer is not required if a change in the location of use within 40-acre legal subdivisions is proposed that would not result in an increase in the number of acres within any 40-acre legal subdivision nor use of water at a new 40-acre legal subdivision (except for a proposed change in location outside of prescribed boundaries such as those provided for irrigation use under Section 42-219, *Idaho Code* or by court decree, even when the change in location would be included within the same 40-acre legal subdivisions existing prior to the proposed change).

An application for transfer is not required for the situation described in the preceding paragraph, even when the place of use is described by a shapefile in the department's GIS database. The department will not initiate an enforcement action against the water right owner due to a discrepancy between the department's shape file and the physical location of use within the 40-acre legal subdivisions if the discrepancy is limited to the situation described in the preceding paragraph. The department *may* update the shapefile in its GIS database from its own information or information provided by the water right owner.

Based on the guidance quoted above, I told Travis that a transfer would not be required to bring the triangle-shaped parcel into the place of use, as long as no more than 28 acres are irrigated within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 28. I recommended that Dry Lot LLC notify IDWR when the change occurs by describing it in the annual report required in condition no. 2 of the license. When the change is reported, IDWR may adjust the place of use boundaries in its GIS records.