

MEMORANDUM

Date: July 17, 2014
To: Transfer 79441
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This is the second of two transfers filed simultaneously to update water right 13-961. The first transfer, 79427, split the right into rights 13-961 and 13-7919, and defined the POU for right 13-7919. This transfer defines the current and historical POU for the remaining 7.0-cfs portion of right 13-961 and updates the ownership record for the right.

Authority to File:

The applicant, Ray Sauer Farms Inc, has the authority to file.

Ray Sauer Farms Inc is a corporation registered to do business in Idaho in 2014, according to the Idaho Secretary of State website. Ray Sauer, the application's signatory, is the President of the corporation, according to the corporation's 2014 Annual Report.

Right 11-267 (renumbered to 13-961) as decreed was vague in its description of the POU. The POU was clarified, however, in the memo of transfer 79427. According to Caribou County tax lot data, updated 5/20/2014, Ray Sauer Farms Inc owns 7/12ths of that POU, which is the same land described in this transfer as 13-961's POU. The applicant has been assessed by Gentile Valley Canal Company yearly for the delivery of 7.0 cfs.

On July 21, 2014, direct notice of the transfer's POU change was provided to all of the current property owners under the original decreed POU including Kimball Evans, Blair and Sherri Mathews, Keith O. Brown Trust, ZBES 1004130 LLC, Danny Forsgren, Jack LeRoy Forsgren, and Ken Torgesen. No objections were received from the property owners. Justin Pond, of 35 Lois Lane in Horseshoe Bend, ID, was also listed as an owner of the water right at the time of the transfer's submittal. It is unclear why Mr. Pond was included as a water right owner. However, direct notice of the proposed changes were sent to the address listed for Mr. Pond on the water right, and were returned undeliverable as addressed.

Based on the ownership of land in the clearly defined POU for right 13-961, assessments levied by Gentile Valley Canal Company, and the lack of protests from property owners under the large decreed POU, the applicant has the authority to file and the ownership will be updated.

Water Right Validity:

The water right is valid. The decreed POU and the POU described in this transfer have been watered consistently according to aerial photography.

Injury to Other Water Rights:

No water rights will be injured as a result of this Transfer. The POD will remain the same, and no additional rate is authorized for diversion. The transfer was advertised and no protests were received. The watermaster of Water District 11 was notified of the changes proposed in this transfer and did not respond.

Enlargement of Use:

Enlargement of use will not occur as a result of this Transfer. This Transfer and Transfer 79427 together shrink the POU for 13-961 from 560 acres as decreed to 461 acres. This change results in a total supply of 0.026 cfs/acre, which is consistent with other late-priority meadow rights identified in the Bear River decree. Evidence also suggests that water has been delivered this way for tens of years.

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.