

MEMORANDUM

Date: July 25, 2014
To: Transfer 79341
From: Scott Bergendorf
Re: Transfer Analysis

This transfer proposes to update water rights 11-137 and 11-138 to reflect current irrigation practices. Water rights are diverted through the Muddy Canal.

The source for the water rights are listed as the Thomas Fork. However, the decree states that water is delivered through the Muddy Canal, which also functions as a natural channel in the Thomas Fork basin. Historically, the majority of the water in the Muddy Canal (or Muddy Creek) come from Bischoff Creek, Surnge Creek, Preuss Creek, Dry Creek, and other drainages to the west and north while very little water came from the Thomas Fork. Sometime between 1994 and 2003, the ditch connecting the Thomas Fork to the Muddy Canal was filled in and currently the Muddy Canal is no longer connected to the Thomas Fork.

The 1902 Decree does not identify a legal description for the point of diversion, but only notes that water is delivered through the Muddy Canal. This transfer will designate a point of diversion for the water right. The point selected is where the Muddy Canal (creek) enters the place of use.

The 1902 Decree only identifies the total number of irrigated acres (160). It does not identify the number of acres irrigated in each $\frac{1}{4}$, $\frac{1}{4}$, nor does it identify the location of the point of diversion. This transfer will more clearly define the elements of the water rights. Total irrigated acres will be reduced to 123 to reflect current irrigation practices. Season of use was incomplete in the 1902 Decree and will be identified with this transfer.

Authority to File:

The applicant is the current owner of the water rights per warranty deed. Change of ownership will be accomplished with this transfer.

Water Right Validity:

Water rights were decreed in 1902. Review of aerial photography indicates regular use of 123 acres on the applicants' property. Forfeiture is not an issue.

Injury to Other Water Rights:

Injury to other rights is not apparent. No physical change to the water right will take place. The irrigated acreage and point of diversion will be defined to reflect historic use.

Enlargement of Use:

The proposed change will not result in enlargement of use. Neither rate nor acres will increase as a result of the transfer. No issues identified.

Local Public interest:

No issues identified.

Beneficial Use/Conservation of Water Resources:

No issues identified.

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.