

MEMORANDUM

Date: April 24, 2014
To: Transfer 79198
From: Kerrie Mathews
Re: Transfer Evaluation

Transfer No. 79198 for water rights 29-13393, 29-13394, 29-2409A and 29-495A proposes to change the points of diversion, combine the place of use of all the water rights and update the ownership of a portion of water 29-2409A .

The applicant purchased a portion of water right 29-2409A to supplement their existing surface water irrigation. The point of diversion and place of use will be updated to reflect the new ownership. The warranty deed that was included in the application did not indicate a portion of the right was to be split, but rather that the entire water right was sold to the new owners. In a meeting with Ethlene Rock this irregularity was discussed. Per Ethlene only the irrigation portion of this right is to be moved. The domestic portion of this right is to be retained by the current owner and should not be transferred.

This transfer application contains two amendments. The first amendment received by the Department on May 1st 2014 added water right 29-13394. The applicant purchased this water right in 2011 and inadvertently left this purchase off the original application for transfer. The second amendment corrected a typographical error on the amended application which lead to a protest by the BLM.

Authority to file:

Water rights 29-2409A and 29-13393 are currently in the name of John M Dudnake. The application contained a warranty deed transferring ownership of the two rights to Marvin & Ethlene Rock. Water right 29-13394 was purchased from Logan and Rebecca Robinson. The application contained a warranty deed transferring ownership to Marvin & Ethlene Rock. Water right 29-495a and the proposed place of use is in the name of Marvin & Ethlene Rock.

Validity of the Water Right:

Water rights 29-13393, 29-13394, 29-2409A and 29-495A were decreed on March 22, 2004. Aerial photography shows consistent irrigation. Forfeiture does not appear to be an issue.

Injury to Other Water Rights:

No injury to other water rights was identified. The application was advertised, the BLM protested the amended transfer on May 29, 2014. This protest was withdrawn on June 4, 2014. The water master for WD29D was notified of the transfer and did not provide comments.

Water rights 29-13394 & 29-2409B are stacked on the same place of use and have conditions that limit the combined use to 0.15 cfs. Water right 29-2409B (groundwater) is the primary water used to irrigate the current place of use. Water right 29-13394 (surface water) is a supplemental water right. Historically the groundwater has been the only source of water for the current place of use. Blackrock creek is an intermittent stream, and usually does not contain enough water to provide irrigation for the allocated water rights. In addition to the lack of water from Blackrock creek, the development around the area has made the diversion system inoperable . The surface water 29-13394 will be overlapped with additional surface and groundwater on a smaller place of use and the diversion rate reduced to prevent an enlargement.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issues identified.

Review of the application finds there is not clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this transfer application.