

MEMORANDUM

Date: May 7, 2014
To: Transfer 78878
From: Blake Jordan
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion and place of use for a portion of water right 31-7215. The applicant seeks to transfer 40.0 acres from water right 31-7215 to their property located in the SESW of T08N, R36E, Section 16. A new well will be drilled.

Authority to File:

Northern Agriculture V, LLC is the current owner of water right 31-7215 per IDWR record. Northern Agriculture V, LLC provided a letter consenting to the transfer application. The applicant is the current owner of the property at the proposed point of diversion and proposed place of use per Jefferson County taxlot data. Once the transfer application is approved, the applicant will submit an ownership change for the 40.0 acre portion of water right 31-7215.

Water Right Validity:

Decreed in 2002. Information available to the department including field reports, measurement records, aerial photography and land-sat imagery does not show evidence of irrigation. The applicant provided photos and affidavits showing that the 40 acres located in the SENW of T08N, R38E was irrigated in October 2011. However, the evidence did not address the apparent non-use between 2002 and 2011. Based on the information available to the department at that time, the transfer was denied by preliminary order on January 6, 2014.

On January 21, 2014, the applicant submitted a petition for reconsideration asking for additional time to collect and submit evidence of irrigation in the 2002 to 2011 time period. On February 3, 2014, the department granted the petition and withdrew the preliminary order denying the transfer. BLF Land was given three months to collect and organize evidence related to irrigation occurring on the 40.0 acre tract located in the SENW of 08N, 38E, Section 7.

On April 29, 2014 the applicant provided information pertaining to the use of water on the 40.0 acre tract. The evidence provided indicates that water was diverted and used on the 40.0 acre tract for irrigation purposes in 2004, 2007, and 2011. Even though the irrigation uses were very short in duration, they appear to qualify as a beneficial use of water. At this point, IDWR does not have clear and convincing evidence to support a finding of forfeiture.

Injury to Other Water Rights:

Inside the ESPA and within WD 110. Impacts to each Snake River reach are less than 2.0 acre-feet per trimester. No mitigation required. This transfer was advertised and there are no protests. The water master was notified about the application but did not provide comment.

Enlargement of Use:

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.