

MEMORANDUM

Date: March 19, 2014
To: Transfer 79001
From: Blake Jordan
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion, add points of diversion, change the place of use, and change the nature of use for the irrigation portion of water right 29-2523. Idaho Water Company (applicant) seeks to transfer 132.0 acres of irrigation water from property located approximately 2.5 miles northwest of Downey Idaho to the City of Chubbuck's municipal service boundary. The City of Chubbuck is located approximately 36 miles north of Downey Idaho. The nature of use will change to municipal and the municipal use under the water right will be for irrigation. The proposed points of diversion include existing ground water wells owned by the City of Chubbuck.

Authority to File:

TeAuna Newton is the current owner of water right 29-2523 per IDWR record and current owner of property at the current place of use per personal representatives deed. Idaho Water Company has entered into two purchase agreements; one with TeAuna Newton (owner of water right 29-2523) and one with the City of Chubbuck. The purchase agreements authorized Idaho Water Company to file this transfer.

Water Right Validity:

Water right 29-2523 was decreed in 2004. Aerial photography appears to show continuous irrigation. Forfeiture is not an issue.

Injury to Other Water Rights:

This transfer proposes to move water right 29-2523 into the ESPA. The City of Chubbuck's municipal service boundary is within WD 120. The point of diversion for water right 29-2523 is located approximately 2.5 miles NW of the City of Downey and approximately 30 miles south of the closest active ESPA model cell. The ESPA analysis provided with the transfer used the nearest active model cell to determine potential impacts to the ESPA reaches. According to the applicants analysis changes to the ESPA river reaches are less than two acre-feet per trimester with an initial pumping limitation of 30% during the first year after the transfer. This analysis would be appropriate if the actual point of diversion was located inside or very close to the active ESPA model cell. But the current point of diversion is located approximately 30.0 miles from that active ESPA model cell and the analysis did not appropriately identify the transient impacts to the ESPA river reaches.

According to the transfer memo "An application for transfer proposing to change the point of diversion from one distinct aquifer to a totally separate aquifer is not approvable, just as an application for transfer proposing to change the point of diversion for a surface water right from one distinct surface water source to a totally separate surface water source is not approvable."(pg 27 (8) Changing Aquifer Source).

An email was sent to Jason Helms (applicants representative) asking to provide information showing that the ground water source described under water right 29-2523 is tributary to the ESPA and provide a separate analysis estimating the transient impacts to the Snake River reaches associated with changing the point of diversion described under water right 29-2523.

The applicant provided a report which concludes that the Upper Marsh Creek Aquifer is tributary to the ESPA and the transient impacts continue to be less than the department standards when the initial pumping at the proposed points of diversion are limited to 30% during the first year after the transfer is

approved. The departments hydrology staff was asked to review the applicants report and give their expert input about the hydrology of the Upper Marsh Creek Aquifer as it relates to the ESPA. The hydrology staff believes that the Upper Marsh Creek Aquifer is tributary to the ESPA. However, the hydrology staff indicates that the applicant model approach should have used the model cell that intersects where the Portneuf River crosses under Interstate 86. The Portneuf River begins to interact with the ESPA approximately where the river passes under the interstate.

Given the information provided by the applicant and the departments hydrology section an ESPA analysis was conducted using the model cell (SP095119) that intersects where the Portneuf River passes under Interstate 86 and the model cell that intersects the spatial location of a centroid (SP096122) which represents the average spatial location for the City of Chubbuck points of diversion. According to the analysis impacts to the Snake River reaches are less than two acre-feet per trimester and ten percent of historic depletions. This analysis did not include a 30% pumping limitation during the first year after the transfer approval.

This transfer was advertised and there are no protests. The water master was notified about the transfer but did not provide a comment.

Enlargement of Use:

The current nature of use under water right 29-2523 is for irrigation (2.56 cfs) and for stockwater (.04 cfs). The water uses under this water right is limited to a total diversion rate of 2.56 cfs. The transfer application indicates that the full 2.56 cfs will be transferred with the irrigation portion of the water right. Per conversation with Jason Helms (applicant's representative) the stockwater portion of the water right should be preserved for use and the irrigation portion of the water right should be reduced to 2.52 cfs.

Local Public interest:

No issues identified

Beneficial Use/Conservation of Water Resources:

No issues identified.

Effect on Economy the Local Area:

No issues identified.

Effect on Agricultural Base of the Local Area:

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.