

MEMORANDUM

Date: March 27, 2013
To: Transfer 78432
From: Jeff Cooper
Re: Review & Evaluation of Sufficiency of Information

Applications for transfer 78432 & 78433 propose to change the place of use (POU) for the irrigation portions of surface and groundwater rights (9.23 CFS, 198.5 Acres) appurtenant to property located approximately 1.1 to 2.3 mi. W & 0.6 to 1.4 mi. S of Hailey. Applications propose to create a 253-acre permissible place of use (PPU) by including ground adjacent to the authorized POU. Upon approval, rights will be limited to 198.5 acres of irrigation annually, currently authorized under the rights, within the 253-acre PPU. Application 78432 also proposes to add an existing point of diversion (POD) on Democrat Gulch Creek, located approximately 2.0 mi. W & 0.9 mi. S of Hailey, as an authorized POD for Democrat Gulch irrigation rights 37-1222 & 37-12396. Application 78432 also proposes adding a point of injection and rediversion to describe this additional Democrat Gulch Creek POD for wildlife, recreation, and heating purposes associated with right 37-8670 (0.08 CFS, Hailey Hot Springs). This application also proposes to change the POD for right 37-549 (3.11 CFS, Croy Creek), currently located approximately 2.1 mi. W & 1.8 mi. S of Hailey, to a new POD located downstream approximately 1.7 mi. W & 1.4 mi. S of Hailey.

Transfer also corrects the Wildlife POU for right 36-8670, which is appurtenant to the pond located in the SESE and NESE of Sec. 18, as listed on right 37-12396. Transfer occurs within the Upper Big Wood Groundwater Management area and the Big Wood River Water District, so appropriate conditions will be added. Watermaster comments from WD 37 will also be solicited. Due to the nature of the proposed changes, it is recommended these applications be processed with a public notice and protest period.

Other areas of note for this transfer:

(1) Right 37-548 was decreed with the following combined limit: The rights listed below are limited to the irrigation of a combined total of 180 acres in a single irrigation season. Combined Right Nos.: 37-548, 37-549, 37-1222, 37-2142, 37-4440. This conflicted with the additional rights in this condition, which indicated that rights 37-548, 37-549, 37-1222, 37-2142, 37-4440, and 37-4138, when combined were allowed for the irrigation of 185 acres. This is consistent with notes by Kelly Christensen on a Transfer Adjudication Claim Report (October, 2008), Kelly Christensen e-mail to Erick Powell (August 17, 2010), and notes from a meeting between Kelly Christensen and Erick Powell/Chuck Brockway Sr. (July 30, 2010). Because of this, the combined limit of 180 acres was dropped in lieu of the 185 acre limit.

(2) Rights 37-22250 & 37-22251 were licensed in 2008 prior to the partial decrees being issued for the rights at the POU. Each contained a combining condition which was based off the recommendations which have since been revised and decreed. Because of this, the flow rate for this combined condition was updated to limit rights 37-548, 37-549, 37-1222, 37-2142, 37-4440, 37-22250, and 37-22251 to 9.08 CFS. Previously, these rights were limited to 9.81 CFS. However, the flow rate for rights 37-549 & 37-4440 were revised and subsequently partially decreed.

(3) Right 37-4138 (Irrigation) has a combining condition with right 37-4139 (Diversion to/Recreation Storage) for flow rate (0.15 CFS – Hailey Hot Springs). However, no element or condition is being changed on right 37-4139, so it is not included in this transfer.

- Authority to File:
Applicants are listed as current owner on IDWR records for the rights involved in this transfer.

Applications were signed by Charles E. Brockway, whom was granted limited power of attorney, to pursue the applications, by Joseph Clark, Member, Sweet Potato Ranch, LLC, a registered entity in the State of Idaho.

- Water Right Validity:

Rights 37-548, 37-549, 37-1222, 37-2142, 37-4138, 37-4440, and 37-12396 were partially decreed in the SRBA in May, 2011. Rights 37-22250 and 37-22251 were licensed in June, 2008. Right 37-8670 was licensed in February, 2008.

- Injury to Other Water Rights:

None anticipated.

- Enlargement of Use:

None anticipated.

- Local Public Interest:

No negative impact anticipated.

- Beneficial Use/Conservation of Water Resources:

Proposed use is recognized as a beneficial use of water.

- Effect on Economy of the Local Area:

None anticipated.

- Effect of the Agricultural Base of the Local Area:

None anticipated.

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.