

MEMORANDUM

Date: January 6, 2014
To: Transfer 78990
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to rearrange and combine the place of use for ten water rights owned by Isham Farms. The transfer addresses a pending violation identified in 2012. The transfer will not change any of the points of diversion for the water rights.

Authority to File:

The applicant demonstrated ownership of all ten water rights. Department records indicate that Isham Farms is the owner of record of seven of the rights at the time of application submittal. Isham Farms is a corporation in good standing according to the IDSOS's Business Entity search. Donald Isham, who signed the transfer, is the President of the company. Isham Farms owns all of the lands on which the proposed POUs are located according to Butte County tax lot data (updated 7/9/2012).

Ownership of right 33-91E was changed to Isham Farms as part of this transfer. The change is based on a warranty deed supplied with the Transfer application. Ownership of 33-7006B and 33-7057E were also changed to Isham Farms in this transfer. The change is based on Transfer 4839, which moved the POU for those rights to land owned by Isham Farms (T05N R29E Section 3 NESE and SESE). Isham Farms filed Transfer 4839, but did not update ownership at that time.

Water Right Validity:

All ten water rights were decreed on 8/11/2000. Review of post-decree aerial photography indicates consistent use of the water rights. No portion of the water rights appears to have been lost to forfeiture.

Injury to Other Water Rights:

The changes proposed in this transfer will not affect other water users. No points of diversion are being changed. The proposed POU is already being irrigated using these water rights. An ESPA analysis was not required.

Enlargement of Use:

The ten rights are limited to a combined 959 acres. On their face, the water rights appear to authorize the irrigation of 1,016 acres. However, after approval of Transfer 4839, some of the ground water rights (33-2139B, 33-7006B, 33-2070B, and 33-7057E) became overlapped with some of the Little Lost River rights (33-38, 33-10052, and 33-10983). The overlap constitutes 57 acres (33 acres in T05N R39E Section 2 NESE and 34 acres in the SESE of the same Section).

This transfer also clarifies the ownership of right 33-91E. The Purchase and Sale Agreement and Warranty Deed executed between Isham Farms Inc. and Leo and Cleo Amy in 2003 and supplied as part of Transfer 70780 were vague. A Clarification was supplied with this transfer, stating that Isham Farms is the correct owner of right 33-91E. Transfer 70780 split right 33-31P and left 33-91E in the name of Leo Amy. The split of right 33-31P was adjusted in this transfer to reflect the 2013 Clarification document. Isham Farms is the owner of all of 33-91E. No enlargement of use will result from this transfer.

Local Public Interest:

No issues identified.

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.