

MEMORANDUM

Date: February 4, 2014
To: Transfer 79004
From: Kerrie Mathews
Re: Transfer Evaluation

Transfer No. 79004 for water rights 34-14246, 34-14248, 34-14250, 34-14252 and 34-14328 proposes to move water rights 34-14246, 34-14248, 34-14250 & 34-14252 to a new place of use with a new point of diversion. The water rights to be moved will be combined with water right 34-14328 at the new place of use. The water rights will be used to irrigate a combined place of use of 18 acres.

The transfer application was originally submitted on August 15, 2013. The application was incomplete and could not be processed until January of 2014 when the additional information was received.

Authority to file:

All of the water rights are currently in the name of Randall and Sandra Damiana. However, the current place of use for water rights 34-14246, 34-14248, 34-14250 and 34-14252 is not owned by the Damianas. The original water rights (34-378A, 34-2410, 34-13572A and 34-2373A) were claimed by the Damianas in the SRBA. Partial decrees for these rights were issued in the name of Randall and Sandra Damiana.

The Damianas sold most of the property under the original water rights to JRNCC. In April 2009, IDWR completed an ownership change for JRNCC, but excluded the portions of the water rights that were not within the legal description of the land sold to JRNCC. The unchanged portion of the water rights remained in the Damiana's names.

Evidence provided to the Department shows that Damianas never owned the ground associated with the unchanged portions of the water rights. It appears that acres were assigned to neighboring properties based on aerial photography and existing fencelines (instead of using PLS / land ownership boundaries). This appears to be an error. Damiana's are the correct, decreed owners of the water rights and will be allowed to transfer the rights to the proposed place of use. The acres will no longer be covered by water rights and must be dried up.

Validity of the Water Right:

Water right 34-14246 was decreed on December 14, 2001. Water rights 34-14248, 34-14250, 34-14252 and 34-14328 were decreed in 2002. 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. An ESPA analysis was conducted and submitted with the application. The ESPA transfer analysis provided by the applicant was set up correctly and showed that no mitigation is required. The application was advertised, no protests were received. The water master for WD 34 was notified of the transfer and did not oppose the transfer.

Enlargement:

The transfer will not result in an enlargement provided that the acres at the existing place of use are dried up. These acres have been historically irrigated, so there will need to be a change in irrigation practices to exclude the transferred acres. IDWR should follow-up in the 2014 and 2015 irrigation seasons to ensure that the existing acres are in fact not irrigated.

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.