

MEMORANDUM

Date: July 17, 2013
To: Transfer
78626
From: Blake Jordan
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to add points of diversion, change the point of diversion, change the place of use, and change the nature of use for water rights 29-14054, 29-14055, 29-14056 and for a portion of water rights 29-13885, 29-13887 and 29-13889. Idaho Water Company has a purchase agreement with Howard Armstrong for the water rights involved in this transfer. Idaho Water Company also has a purchase agreement with the City of Chubbuck. Idaho Water Company will purchase these water rights from Armstrong and then sell them to the City of Chubbuck. The nature of use for these water rights will change to municipal. The municipal use will be for the irrigation of 158.1 acres within the City of Chubbuck's Municipal Service Boundary and will be diverted through existing city wells. These water rights when combined are limited to 1.736.

Prior to this transfer being filed, two water right ownership changes have been filed dealing with water rights 29-7243, 29-13199 and 29-13201. The ownership changes split the water rights and created water rights 29-14054, 29-14055, 29-14056, 29-13885, 29-13887 and 29-13889. It is important to note that the first ownership change that occurred did not split the water rights proportionately. These disproportionate splits have been corrected as part of this transfer.

As a result of correcting the disproportionate split, the rate of diversion, volume and acres for some the individual water rights described in the transfer application will be slightly different than the amounts listed on the first page of the transfer approval. However, the total number of acres and volume described in the application will not change. The total rate of diversion was reduced slightly to 1.736 cfs.

Water rights 29-2385, 29-2413, 29-8229, 29-8230, 29-2469, 29-7624, 29-8188, 29-14016 and 25-14058 were added to the transfer as associated water rights. The conditions of approval for these associated water rights will be updated.

Authority to File:

The applicant has a purchase agreement with Howard Armstrong (right holder) and with the City of Chubbuck (proposed place of use). As part of the purchase agreements, the applicant is authorized to file this transfer. An ownership change will be filed by the City of Chubbuck after the transfer is approved.

Howard Armstrong is the sole owner of water rights 29-14054, 29-14055, and 29-14056 per IDWR record and owner of current place of use. Armstrong currently owns a portion of water rights 29-13885, 29-13887 and 29-13889 per taxlot data.

A portion of the water rights 29-13885, 29-13887 and 29-13889 is appurtenant to land owned by Ryan HandCock and Chad Nielsen. The applicant provided a notarized statement from Hancock who indicates he has no claim or interest in the water rights. Chad Nielsen protested the transfer application. His protest indicates that the applicants transfer proposed to move water rights off of his land. Chad Nielsen has withdrawn his protest as a result of an agreement that has been reached between the two parties.

Water Right Validity:

These water rights were decreed in 2004. These water rights are appurtenant to land that is and has been enrolled in a crop set aside program. Water rights appurtenant to lands enrolled in a crop set aside program are protected from forfeiture. Forfeiture is not an issue.

Injury to Other Water Rights:

Inside the ESPA and within WD 120. The current point of diversion for these water rights are not located within an active model boundary cell. For ESPA modeling purposes, the applicant used the closest active model cell which is SPO9912. The applicant's ESPA analysis indicates no impacts larger than 2 af/trimester to any individual ESPA reach and no additional mitigation is required. IDWR conducted additional modeling scenarios and also found that no additional mitigation will be required. This transfer was advertised and was protested. The protest has been withdrawn. The Watermaster does not oppose transfer.

Enlargement of Use:

No issues identified.

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.