

MEMORANDUM

Date: June 11, 2013

To: Transfer
78288

From: Michael Holliday

Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to update the canal company service area and to bring the undefined elements of the company's water rights to current standards. The place of use for these rights will now be described using a digital boundary and will cover all the Idaho land currently irrigated with canal company shares. The company serves additional land in Utah, but this transfer addresses only the Idaho elements of these water rights. The legal description of the point of diversion for right no. 17-2006 will also be corrected in this transfer.

Authority to File:

Department records show the applicant as the current owner of right no. 17-2006. The remaining water rights included in this transfer were recently changed to show the applicant as the current owner. The change in ownership was based primarily on the articles of incorporation of the Curlew Irrigation and Reservoir Co. and on two subsequent court decrees. These documents made it clear that the applicant was the correct owner of the rights. For a more thorough analysis of the ownership documentation associated with these rights, please see the February 20, 2013 memorandum in the water rights files.

The Curlew Irrigation and Reservoir Co. is currently registered with the State of Idaho as a corporation in good standing. The transfer application was signed by the president and the secretary. Both have authority to sign on behalf of the company.

Water Right Validity:

Right no. 17-2006 is based on a license issued in 1913. The other rights included in this transfer are based on an 1896 district court decree that did not describe a place of use. Review of available aerial photography from the years 1992 through 2011 indicates that most of the place of use of right no. 17-2006 has been regularly irrigated. While it appears that some of the licensed place of use may not have been watered, the applicant indicated that company shares have moved over the years. These place of use changes necessitated the filing of this transfer.

Injury to Other Water Rights:

Other rights will not be injured by the proposed changes. While the legal description of the point of diversion for right no. 17-2006 will change, there will be no physical change on the ground. The location of the point of diversion and the canal used to convey the water rights has not changed since construction of the dam in 1911.

The place of use will be changed to include all the irrigated lands of the shareholders, and the elements of these water rights will be brought to current standards. However, the quantity diverted will not change as a result of the transfer. The transfer application was advertised and no protests were filed.

Enlargement of Use:

Upon request for additional information regarding the historical beneficial use of water, the applicant reviewed the company service area and determined that 540 Idaho acres and approximately 1973 Utah acres have been irrigated over the years by canal company shares. Acres that were once irrigated by shares, but the canal shares have since been moved to other land, were not included in the total acre count. The applicant also indicated that 1600 head of cattle have historically been watered in Idaho from

the canal system. The canal delivers water to additional cattle within the State of Utah.

The proposed changes will not result in enlargement of use. While the description of the place of use for these rights will change from a land list to a digital boundary, the number of acres authorized for irrigation will not increase beyond the historical beneficial use. The acres will simply be encompassed by the new service area of the company.

The 1914 decree "Curlew Irrigation and Reservoir Co. vs. Pratt Irrigation Co.," which determined how Deep Creek water rights would be administered between the two companies, specified both the irrigation season and the season of use for stockwater. Lyle Steed, who serves as watermaster for both the Delmore Canal Co. and the Curlew Irrigation & Reservoir Co., estimated that the quantity of water beneficially used for stockwater during the non-irrigation season was 2 cfs. This information was used as the basis for the previously undefined elements related to stockwater use for right no. 17-1, and for the extent of the irrigation season for all the rights. Domestic and stockwater use was removed from all the rights except for 17-1, because the entire historical beneficial use of stockwater can be fully described in right no. 17-1 alone, and the canal is no longer used for domestic purposes.

In summary, neither rate, nor volume, nor total acreage, nor season of use will be enlarged as a result of this transfer.

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.