

MEMORANDUM

Date: May 7, 2013

To: Transfer
78367

From: Kerrie Mathews

Re: Transfer Evaluation

Transfer No. 78015 was filed by Brett and Bonnie Barfuss in June 2012. The transfer proposed changing the point of diversion and place of use and update the ownership of water rights 11-443, 11-446, and 11-447. All three rights are for Soda Creek and were included in the 1920 Bear River Decree. Water right 11-447 is a hydropower right with a diversion rate of 25.00 cfs.

The transfer was advertised and was protested by the City of Soda Springs and Farmers Land & Irrigation Company. The protests stated a concern that the water rights involved had not been used for many years. In an effort to resolve the protests, the Barfusses amended the transfer application to drop 11-443 and 11-447 from the application. The amended application proposed changing the place of use, point of diversion and reduces the period of use for water right 11-446. Water right ownership will also be updated as part of the transfer.

Water right 11-446 was originally authorized the irrigation of 25 acres. Due to the reduction in period of use and authorized acres of irrigation, the diversion rate was not reduced.

Because of an update in the transfer processing software, the transfer application was renumbered. The new transfer number is 78367.

Authority to file:

Water right 11-446 is currently in the name of Chris Lallatin. The current place of use and proposed place of use are in the name of Brett and Bonnie Barfuss. The applicants provided current deeds and a chain of title tracing back to Lallatin establishing ownership of the property and water right.

Validity of the Water Right:

Water right 11-446 was part of the 1920 Bear River Decree. Aerial photography does not show consistent irrigation at the decreed place of use. However, the applicants own the large piece of property that used to be owned by Lallatin. Aerial photography show the applicants have been irrigating 22.2 acres near their home using water right 11-446. Therefore, 22.2 acres have been actively irrigated under the water right. The remainder of the right appears to have been forfeited through non-use. The applicants provided an affidavit describing the extent of use of the water right.

Injury to Other Water Rights:

The application was advertised. The City of Soda Springs and Farmers Land and Irrigation protested the application. The watermaster for WD11B was notified of the transfer, he also opposed the application. The applicant worked with the protestant and the water master to resolve their protests. An amended application was submitted to the protestants. The City of Soda Springs withdrew their protest on February 27, 2013. Farmers Land and Irrigation withdrew their protest on April 12, 2013.

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.