

MEMORANDUM

Date: May 1, 2013

To: Transfer
78477

From: Blake Jordan

Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion for water rights 11-377, 11-378, 11-379, 11-380. The Dietrich decree incorrectly described the location of the point of diversion for these water rights. The water rights describe the point of diversion (Rose Ditch headgate) to be in the SENW of 09S, 42E, Section 5. The actual point of diversion is located in the SENW of 10S, 42E, Section 5. The applicant seeks to correct the point of diversion legal description discrepancy.

The current place of use described under water rights 11-377, 11-378, 11-379, and 11-380 is ambiguous. According to these water rights, a total of 240.0 acres are authorized to be irrigated somewhere within a 440.0 acre tract. It has been the department's practice to require transfer applicants to identify acres irrigated under a water right when the current place of use contains ambiguity. Bear River Meadows provided a map that delineates the location to the 240.0 acres that are being irrigated. The applicant desires to maintain the original place of use similar to what is described under the decree in the form of a permissible place of use. The approval of this transfer will authorize the irrigation of 240.0 acres within a 362.0 acre permissible place of use.

Authority to File:

The applicant is the current owner of water rights per IDWR record and owner of proposed permissible place of use per Bear Lake County taxlot data. The Rose Ditch headgate is located on land owned by Michael L. Moldenhauer. This transfer does not propose to change the point of diversion. This transfer simply corrects the point of diversion legal description discrepancy that occurred in the Dietrich decree. Randy Budge who is the applicant's attorney signed the application.

Water Right Validity:

These water rights were part of the Dietrich decree. 2009, 2010 and 2011 aerial photography shows water being delivered through the Rose Ditch onto the applicant's property. These aerial photos show that irrigation could have possibly occurred. There is no clear and convincing evidence showing these water rights have been forfeited.

Injury to Other Water Rights:

These water rights are within WD 11A. Watermaster does not oppose the transfer. This transfer was advertised and there are no protests.

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.