

MEMORANDUM

Date: January 16, 2013
To: Transfer
78305
From: Blake Jordan
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion, add points of diversion and change the place of use for water right 13-954. The 1920 Bear River Decree gives a vague description of the point of diversion and place of use for water right 13-954. According to the decree, the point of diversion is located in the NW1/4 of T09S, R34E, Section 42, and the place of use is located within Sections 33 and 34, T09S, R42E for the irrigation of 120.0 acres. The applicant seeks to change water right 13-954 to reflect how the water right is currently being used. The transfer also proposes to update the ownership for the right.

Authority to File:

As stated, the 1920 Bear River decree only provides a general description of the place of use. The proper original place of use for the right was determined using topographic maps. According to the topography irrigation under water right 13-954 could only have occurred on land in the NWNWNW of 09S, 42E, Section 34 (owned by Joel Johnson and Wendell Wiser per Caribou County taxlot data), and on land in the N1/2 of 09S, 42E, Section 33 (owned by the applicant per warranty deed). The applicant asserts that they are the sole owner of water right 13-954 and has never observed Mr. Johnson (property owner in the NWNWNW of 09S, 42E, Section 34) or his predecessors using water on his property. The department sent a letter to Mr. Johnson and Mr. Wiser notifying them of the transfer application. Mr. Johnson and Mr. Wiser were asked to contact the department if they have an interest in the water right and could demonstrate that they have historically used it on their property. Mr. Johnson and Mr. Wiser did not contact the department by the response deadline (Jan 15, 2013). Since there was no response from Wiser or Johnson, we will move forward with the transfer, assuming that Johnson and Wiser have no interest in water right 13-954. The ownership for water right 13-954 will be updated to be in the name of Bear River Meadows LLC. Western AgCredit holds a security interest in water right 13-954 and provided a letter consenting to the transfer.

Validity:

1920 Bear River Decree. Aerial photography shows green vegetation. There is no clear and convincing evidence that this water right has been forfeited.

Injury to Other Water Rights:

Within WD 11. This transfer was advertised and there are no protests. Watermaster was notified about the transfer but did not comment.

Enlargement of Use:

No enlargement issues identified.

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 the criteria set forth in Section 42-222, Idaho Code.