

MEMORANDUM

Date: October 24, 2012
To: Transfer 78048
From: kmathews
Re: Transfer Evaluation

Transfer No. 78048 for water rights 32-26, 32-27, 32-28, 32-38, 32-39, 32-40, 32-41, 32-2022, 32-2048, 32-2077 and 31-2471 proposes to change the place of use for the rights to create a 934-acre combined place of use. The application was initially submitted without 31-2471, which was identified as fully overlapping the other rights. An amended application was submitted adding 31-2471.

The partial decrees for the rights listed above (excluding 31-2471) included a condition for a combined diversion rate limit. The limit is additive and does not restrict the rights in any way. The combined rate limit will be removed from the rights.

Authority to file:

The rights listed above are currently in the name of Natural Guardian LLC. Tax-lot data shows the current owner of the proposed place of use as Jack Webster. The applicant submitted warranty deeds showing the property was sold by Webster to the applicant in 2010.

Validity of the Water Right:

The rights listed above (except 31-2471) were decreed on October 27, 2000. Water right 31-2471 was decreed on February 22, 2002. Aerial photography for 2002-2012 does not show consistent irrigation. However, watermaster records show the most senior water rights (those prior to 1900) were delivered in full regularly throughout the ten year time period. The watermaster for WD32C confirmed that the more junior rights are only available in average to wet years. Forfeiture does not appear to be an issue at this time.

Injury to Other Water Rights:

No injury to other water rights was identified. The points of diversion on Medicine Lodge Creek will not change. The application was advertised, no protests were received. The watermaster for WD32C raised several concerns about the transfer. He disagreed that the point of diversion for 31-2471 should be listed on Medicine Lodge Creek. I found that the original application and license for 31-2471 placed the POD at T10N R35E Sec 20 in the NENE from an unnamed stream. In the SRBA, the POD was changed to T10N R35E Sec 6 in the NWNE & NESE, on Medicine Lodge Creek. The source remained listed as "unnamed stream." It appears that this was considered an accomplished transfer under the adjudication statutes. Applicant does not propose a POD change. The PODs for 31-2471 will be left as listed in the SRBA partial decree. WD32C also asked that the basin number for 31-2471 be updated to 32. Because the source on 31-2471 is in Basin 31, it will not be renumbered. However, the right was conditioned to note that it is within WD32C.

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.