

MEMORANDUM

Date: August 21, 2012
To: Transfer 77757
From: bjordan
Re: Transfer Evaluation

This transfer proposes to change a point of diversion and change the place of use for water rights 34-784, 34-785, 34-786. The place of use described under these rights includes a 316.0 acre permissible place of use which is located on land owned by the applicant (Tommy C. Waddoups), land owned by Francis Magee, and land owned by Idaho Department of Lands. The applicant indicates that the permissible place of use was done in error in the SRBA and seeks to reduce the 316.0 permissible place of use for these water rights into a 260.0 acre place of use which will be located on land he owns and land he leases from the Idaho Department of Lands.

The spatial location for one of the points of diversion in the SESW of 05N, 24E, Section 36 is not defined correctly in IDWRs GIS shapefile data base. The applicant proposes to slightly move this point of diversion to its correct spatial location which will continue to be in the SESW of 05N, 24E, Section 36. The applicant also proposes to correct a water source discrepancy for the point of diversion located in the NWSW of 05N, 24E, Section 36. Water rights 34-784, 34-785, 34-786 describe the source of water for the point of diversion located in the NWSW of 05N, 24E, Section 36 as Antelope Creek. This point of diversion is located on Cherry Creek. According to Idaho Code 42-222 a water right holder can only file an application for transfer to change the point of diversion, change the place of use, changed the nature of use, and/or change the season of use for a water right. The source of water for the point of diversion located in the NWSW of 05N, 24E, Section 36 will remain as Antelope Creek.

Authority to File:

The applicant provided warranty deeds and consent agreements showing ownership to the water rights. Water rights 34-784, 34-785, and 34-786 will be changed into the name of Tommy C Waddoups LLC. Rob Harris who is the applicant's attorney signed the application. The 260.0 acre place of use for water rights 34-784, 34-785 and 34-786 will be located on property owned by the applicant and property the applicant leases from Idaho Department of Lands. A water right agreement between the Department of Lands and Tommy C Waddoups LLC was provided with the application. The purpose of the agreement is to address potential future issues regarding water rights 34-784, 34-785 and 34-786 in the event that Tommy C Waddoups LLC lease agreement expires. Both parties are in an agreement that the water right ownership for the portion of these water rights located on Department of Lands property should be in Tommy C Waddoups LLC and Department of Lands name. Tommy C Waddoups and the Department of Lands will file an ownership change to accomplish what was described in their agreement.

Validity:

Water rights were decreed in 2001. Aerial photos show land to be irrigated. Forfeiture is not an issue.

Injury to Other Water Rights:

Within Water district 34. A point of diversion change is not physically occurring. IDWRs GIS shapefile database will be updated to accurately describe the point of diversion location. No injury issues identified.

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.