

MEMORANDUM

Date: July 26, 2012
To: Transfer 77988
From: bjordan
Re: transfer Evaluation

This transfer proposes to change the place of use for water rights 35-13954, 35-13547, 35-13549, 35-13551, 35-13822 (portion) and 35-13953 (portion). This transfer also proposes to change the point of diversion for water rights 35-13822(portion) and 35-13953(portion). The applicants are seeking to bring in an additional 85.7 acres from water rights 35-13822 and 35-13953 and combine them with water rights 35-13954, 35-13547, 35-13549, and 35-13551 to authorize the irrigation of 1270.5 acres. The purpose of the transfer is to cover land being irrigated without water rights. The applicants will be using existing wells.

Water rights 35-13822 and 35-13953 share a 1799.2 acre combined place of use with 12 other water rights. To avoid splitting a combined 85.7 acres between 14 water rights and end up with fractional acres (less than 1.0 acres), 85.7 acres will be taken from water rights 35-13822 and 35-13953. A second transfer (77960) was filed simultaneously and seeks to rearrange the place of use for the remaining portion of water rights 35-13822 and 35-13953, and water rights (the 12 other water rights mentioned above) 35-13683, 35-13682, 35-13684, 35-13685, 35-13687, 35-13689, 35-2244, 35-2358, 35-13775, 35-13774, 35-13776, and 35-13777.

In order to process this transfer and transfer 77960 simultaneously, water rights 35-13822 and 35-13953 had to be pre-split. Water rights 35-13822 and 35-13953 were split into the following:

35-13822 split into 35-14270 (transfer 77988) and 35-13822 (transfer 77960)
35-13953 split into 35-14271 (transfer 77988) and 35-13953 (transfer 77960)

The approval documents summary page for transfer 77988 will reflect the acre reduction, rate of diversion reduction, and annual volume reduction to water rights 35-13822 and 35-13953. The place of use change for the reduced portion of water rights 35-13822 and 35-13953 will be accomplished through transfer 77960. Transfer 77960 will reduce (85.7 acre reduction) the combined place of use for the remaining portion of water rights 35-13822 and 35-13953, and water rights 5-13683, 35-13682, 35-13684, 35-13685, 35-13687, 35-13689, 35-2244, 35-2358, 35-13775, 35-13774, 35-13776, and 35-13777 from 1799.2 acres to 1713.5 acres.

Authority to File:

The applicants are the current owners of water rights per IDWR record. The property at the proposed place of use is owned by the applicants or the Department of Lands. The applicants have a lease agreement with the Department of Lands. A portion of the 85.7 proposed to be moved is appurtenant to land owned by Black Rock Partnership. A consent letter was provided by Black Rock Partnership. Rob Harris who is the applicants attorney signed the application.

Validity:

Water rights were decreed in 2002. 2009 and 2011 aerial photography shows the 45.7 acres proposed to be moved from the SENW and SWSE of 01S, 33E, Section 12 and the NE ¼ of 01S, 34E, Section 7 to be irrigated. There is no clear evidence showing the 40.0 acres proposed to be moved from the NWSE of 01S, 34E, Section 6 being irrigated when using 2006, 2009, and 2001 aerial photography.

MEMORANDUM

However, the purpose of this transfer is to bring in an additional 85.7 acres from water rights 35-13822 and 35-13953 to cover land that is being irrigated with a water right. Even though the 40.0 acres located in the NWSE of 01S, 34E, Section 6 were not irrigated, additional acres located on contiguous farmland which is owned by the applicants was being irrigated in 2009 or 2011. Some of the land under the current and proposed place of use is enrolled in CREP. Water rights will continue to cover land enrolled in CREP. No water rights are being removed from enrolled CREP land. Forfeiture is not an issue.

Injury to Other Water Rights:

These ground water rights are inside the ESPA model boundary and under the jurisdiction of Water District 120. Applicants provided an ESPA analysis which indicated that no additional mitigation is required as a result of this transfer. The department concurs with the applicants analysis. This transfer will be processed as a "no ad transfer." Watermaster does not oppose transfer. No injury issues identified.

Enlargement of Use:

28.6 acres proposed to be moved from the NE ¼ of 01S, 34E, Section 7 is appurtenant to rock piles under a center pivot. The water rights appurtenant to these rock piles are being transferred off as a result of the applicants offering the land located the NE ¼ of 01S, 34E, Section 7 to CREP. If CREP application is denied the applicant will remove the center pivot and use handlines to irrigate the land located in the NE ¼ of 01S, 34E, Section 7. The rock piles will not be irrigated. No enlargement issues identified

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issue 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 application.