

MEMORANDUM

Date: February 16, 2012
To: Transfer 77696 File
From: Corey Skinner
Re: Evaluation of Sufficiency of Information Submitted

Application proposes transferring a 65-acre (0.49 cfs and 206 afa) portion of two groundwater rights, 45-7084B and 45-12884, from a farm (south farm) located 6.4 - 7.4 miles south and 5.5 - 7.0 miles west of the center of Burley (Main & Overland) to a farm (north farm) located 2.4 - 3.4 miles south and 6.0 - 7.8 miles west of the center of Burley. The 65-acre portion of groundwater rights will be combined with four existing groundwater rights (that currently allow for the diversion of 9.27 cfs for the irrigation of 819 acres) for an 884-acre permissible place of use (ppu) on the north farm. Two existing wells located on the north farm will be utilized to divert up to 9.76 cfs for the irrigation of the ppu.

The north and south farms are located within Water District 140 and also within the ESPA so a groundwater model analysis was performed. In order to mitigate impact to hydraulically connected reaches of the Snake River, an additional 60 acres on the south farm will not be irrigated for 10 years (irrigation will resume in the 2022 season). These specific 60 acres have been identified as mitigation use on the untransferred portions of rights 45-7084B and 45-12884. A condition detailing the breakdown of the 60 acre reduction and the timeline for when the 60 acre portion of the rights is no longer needed for mitigation purposes is proposed to be implemented as part of the conditions for the untransferred portions of rights 45-7084B and 45-12884.

An item of note relating to rights 45-7084B and 45-12884 is their current combined acre limit. Right 45-12884 is an expansion of right 45-7084B. Note that the current points of diversion for rights 45-7084B and 45-12884 are located within the Oakley Fan and Oakley Kenyon Critical Groundwater Areas, but the proposed points of diversion for the transferred portions at the north farm are located outside the boundaries of the Oakley Fan and Oakley Kenyon Critical Groundwater Areas. Right 45-7084B currently has an acre limit of 1103.9 acres and expansion right 45-12884 currently has an acre limit of 77.8 acres for a summation of 1181.7 acres, but both of the rights have a condition indicating a total acre limit of 1160.5 acres. As part of the transfer approval, the acre limits of the expansion right 45-12884 portions have been reduced to reflect the original combined total acre limit of 1160.5 acres.

Another item of note is that a 242.9 acre portion of rights 45-7084B and 45-12884 has been placed in the Water Supply Bank (approved 12/31/2009) and that a 65 acre portion of these rights has been rented from the bank and utilized at the north farm (rental approved 5/9/2011). Note that this transfer attempts to make this approved water bank rental a permanent change. Another item of note is that 626.9 acres of 45-7084B and 45-12884 have been enrolled in the CREP program. These acres consist of lands under pivots in Sections 29 and 30, and some additional land in section 24 on the south farm. Note that the 65 acres to be transferred and the 60 acres that will serve as mitigation involved with this transfer consist of lands outside the pivots in Sections 29 and 30 (no overlap with CREP acres).

The north farm (proposed 884 acre PPU) also has some land enrolled in the CREP program. Note that these lands on this farm consist of acres located outside of pivots and that the proposed 884 acre permissible place of use also includes these same lands enrolled in the CREP program. Since the rights (45-2544, 45-7033, 45-11022, and 45-11196) currently involved with the CREP program on this farm can still be assigned to these lands within the proposed PPU, there does not appear to be any issues resulting from this proposed transfer.

Another item of note on the north farm relates to the listed recorded owners of the current rights (45-2544, 45-7033, 45-11022, and 45-11196) on the north farm as decreed in the SRBA as compared to the actual land ownership. Rights 45-2544, 45-7033, 45-11022, and 45-11196 currently describe a common 819 acre PPU with 257 acres in Section 1 (T11S, R21E) and 562 acres in Section 6 (T11S, R22E). Rights 45-2544, 45-7033, and 45-11022 list West Slope Farms as the current owner and right 45-11196 (actually an enlargement of rights 45-2544 and 45-7033) lists Leroy and Peggy Jarolimek as the current owners of the right. The land in Section 1 within the PPU is owned by Leroy and Peggy Jarolimek and the land within the PPU in Section 6 is owned primarily by West Slope Farms with a small portion being owned by Jeffrey Jarolimek.

- **Authority to File:**

The applicant (West Slope Farms) is listed as the current owner of record for rights 45-2544, 45-7033, and 45-11022. A letter of consent authorization signed by Leroy Jarolimek, current owner of right 45-11196, grants the applicant (West Slope Farms) the ability to transfer and manage the rights on the land in Section 1. A copy of a quitclaim deed conveying the 65 acre portion of rights 45-7084B and 45-12884 to the applicant (West Slope Farms) has also been included with the transfer. A warranty deed has been included that shows that the applicant (West Slope Farms) owns the additional acres within the proposed PPU on the north farm. In addition, another quitclaim deed from Jeffrey Jarolimek has been included indicating he has no interest in rights 45-2544, 45-7033, 45-11022, and 45-11196 which allows for the applicant to transfer the rights from his land. A letter from the lienholder (Metlife) agreeing to the permanent transfer of portions of rights 45-7084B and 45-12884 has also been included with the transfer. Note

that the various ownership issues and submitted documents were discussed with IDWR state office staff and it was determined that adequate information to allow for the transfer had been submitted.

- **Water Right Validity:**

The rights involved with the transfer were decreed in the SRBA in 2005. Aerial photography appears to support the recent use described on rights 45-2544, 45-7033, and 45-11022 when considering portions of the rights that are enrolled in the CREP program. The portions of rights 45-7084B and 45-12884 involved with this transfer have been accepted in the water supply bank (approved 12/31/2009). Possible forfeiture does not appear to be an issue with this transfer.

- **Injury to Other Water Rights:**

None anticipated. In order to mitigate impact to hydraulically connected reaches of the Snake River, an additional 60 acres on the south farm will not be irrigated for 10 years (irrigation will resume in the 2022 season). The application will be subject to public notice and protest

- **Enlargement of Use:**

None anticipated.

- **Local Public Interest:**

No issues anticipated. The application will be subject to public notice and protest.

- **Beneficial Use/Conservation of Water Resources:**

Proposed use is recognized as a beneficial use of water.

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.