

MEMORANDUM

Date: December 15, 2011
To: Transfer 77636
From: bjordan
Re: transfer evaluation

This transfer proposes to change the place of use for water rights 34-230, 34-231, 34-232, 34-2275, 34-2350 and 34-10895. This transfer also proposes to change the point of diversion for water right 34-10895. The applicant is seeking to bring in an additional 18.9 acres from ground water right 34-10895 and combine it with water rights 34-230, 34-231, 34-232, 34-2275 and 34-2350 to irrigate 173.9 acres within a 490.9 acre permissible place of use. Both surface and groundwater rights are involved in this transfer. The applicant will utilize existing points of diversion. The point of diversion is only changing for groundwater right 34-10895.

Right 34-10895 shares a combined place of use with water rights 34-12365, 34-490, 34-459, and 34-374B. Rights 34-12365, 34-490, 34-459, and 34-374B will be brought into the transfer as associated water rights to modify their place of use and update conditions.

Authority to File:

The applicant is the current owner of water rights 34-230, 34-231, 34-232, 34-2275 and 34-2350 per IDWR record, and owner of proposed permissible place of use per warranty deed Custer County tax assessment (2011). The applicant has a water right agreement with Notch Butte Farms LLC involving water right 34-10895. This transfer also proposed to change the ownership for water right 34-10895. However, the water right agreement is more of a purchase agreement, which doesn't properly convey the ownership of the water right. The ownership for water right 34-10895 will remain in Notch Butte Farms LLCs name. Once the transfer is approved, the applicant can file an ownership change with a proper conveyance document. The applicant did pay for an ownership change with the transfer application. This ownership payment has been refunded.

Validity:

Decreed water rights. 2009 and 2011 aerial photography show the 18.9 acres being transferred as irrigated. Forfeiture is not an issue.

Injury to Other Water Rights:

Inside the ESPA and within WD 34. The point of diversion change for ground water right 34-10895 is in adjacent cells. No ESPA analysis required. No injury issues identified. This transfer was advertised and there are no protests. Watermaster does not oppose transfer.

Enlargement of Use: There are no apparent enlargement concerns.

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.