

MEMORANDUM

Date: October 07, 2011
To: Transfer 74731
From: jcefalo
Re: Eval Memo

This transfer proposes to change the point of diversion and place of use for right 27-11931. Paul Reid purchased this water right from Rex Hale in 1990. The original place of use was off of the Blackfoot Slough Ditch. Since 1990, watermasters for the Blackfoot River have delivered the water right to Paul Reid at his upstream pump, approximately 5 miles upstream on the Blackfoot River. The file contains affidavits from two previous watermasters, Ed Hall and John Davidson, stating that they delivered the 40 inches of water under 27-11931 to Paul Reid.

Mr. Reid filed a claim in the adjudication for water right 27-11931 (a split portion of old right 27-4) describing the place of use at his property. Because the conveyance from Hale to Reid occurred in 1990, it did not qualify as an accomplished transfer within the SRBA rules. Ernie Carlsen asked Mr. Reid to claim the water right at its original place of use. Once decreed, the water right could be transferred to the correct place of use. Mr. Reid followed these instructions. Water right 27-11931 was partially decreed in the SRBA in December 2006. This transfer is meant to officially move the water right to the place where it has been used for twenty years.

Mr. Reid will be adding 27-11931 to a 215.1 place of use associated with five other water rights (27-1B, 27-2B, 27-3E, 27-4Z, and 27-5B). The transfer will allow Mr. Reid to divert from the Blackfoot River at a higher rate. Without 27-11931, the existing rights total 1/2 inch per acre. With 27-11931, the water rights total 3/4 inch per acre. Water rights 27-1B, 27-2B, 27-3E, 27-4Z, and 27-5B have been added to the transfer as associated water rights to update combined acre conditions. Transfer was held up for a few months to allow these associated water rights to be partially decreed in the SRBA. The associated water rights carry separate combined limits with seven other water rights, not owned by Paul Reid. These rights were not incorporated into this transfer. 27-11931 will not be added to the larger, regional combined limits.

POD is located within the Section 12 square, but the QQ is officially identified as the SENE of Section 11 in the 2008 GCDB layer. Spatially, the POD appears to be in the NWNWSW of Section 12. Transfer POD was advertised as the SENE Section 11. Four of the associated water rights list the POD in the NWSW of Section 12. I decided to have 27-11931 match the POD description from the other Paul Reid water rights associated with the pump. A condition will be added noting the discrepancy. Because the POD was accurately described in the advertisement, the transfer does not need to be readvertised.

The SRBA decree for 27-5B was found to have two minor errors. The POD description, for example, is vague and inconsistent. It lists the single point of diversion in the SWNW and the NWSW of Section 12. All of the other water rights associated with Paul Reids property list the point of diversion in the NWSW of Section 12. The point of diversion for 27-5B will be clarified as part of this transfer, making it consistent with the other associated rights.

The decreed place of use for 27-5B is also in error. It only identifies 210.7 irrigated acres but does not contain a specific acre limit (K06 condition). All of the other associated rights, and the combined limit for the rights, identify 215.1 acres. The 4.4 acre discrepancy is a portion of the property located on

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unsurveyed land. Initially, ownership of the land was in question. However, the question of ownership was resolved in the SRBA and all of the other associated rights were changed to include the 4.4 acres. Right 27-5B appears to have been missed. The POU for 27-5B will be corrected as part of this transfer. The consent to make the POU correction, to the applicants benefit, is implied in the map included in the transfer application. The 215.1 acre shape is identified as the place of use for all rights.

Authority to File:

Applicant was required to prove ownership of the water right as part of the SRBA. He did this through affidavits from previous watermasters and from the attorney assisting with the 1990 sale of the water right. Mr. Reid also provided a copy of the check used to purchase the water right. All of these items were sufficient to establish ownership in the SRBA. Because Mr. Reid has been using the water right on the new place of use since the purchase from Rex Hale (for over twenty years), no further inquiry into water right ownership is warranted.

Water Right Validity:

Water right 27-11931 was decreed in the SRBA in 2006. Water right 27-5B was decreed in 2010. Forfeiture is not an issue.

Injury to Other Water Rights:

Water rights in this area of the Blackfoot River are administered under a common curtailment priority date. Moving from the Blackfoot Slough Ditch to the upstream river pump will not cause injury to other water rights. Transfer was advertised. No protests were received. The alteration to water right 27-5B was added to the transfer after it had been advertised. Because the changes to 27-5B simply correct clear errors in the SRBA decree, there is no need to readvertise the transfer. 27-5B will continue to be diverted at the same point on the river and applied to the same acres. There is no hydrologic impact associated with the correction of the 27-5B SRBA decree. Watermaster for WD27 does not oppose the transfer.

Enlargement of Use:

There is no evidence of enlargement.

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 application.