

MEMORANDUM

Date: July 12, 2011
To: Transfer 77309
From: kmathews
Re: Transfer approval

This transfer proposes to change the point of diversion for water rights 13-299 and 13-300. This transfer will update the point of diversion for these rights based on the historical point of diversion, which has been in use for the last 50+ years.

Water right 13-299 and 13-300 have conditions for combined use of 143 acres which have been carried forward.

In a June 2, 2011 letter, Steven Fuller, Attorney for Webster, asked that water right 13-300 be corrected. He argued that the 1.5 cfs for irrigation and the 0.02 cfs for stockwater should add together to authorize 1.52 cfs total diversion. The Worm Creek decree shows that the two diversion rates are not additive. The total diversion authorized under right 13-300 is 1.50 cfs. This combination of irrigation and stockwater is consistent with other water rights listed in the Worm Creek Decree.

Authority to file:

The applicants are the current owners of the water rights per IDWR records. According to Franklin County tax-lot data (updated October 4, 2010) The Joyce P Smith Family Trust is the current owner of the Point of Diversion. The applicant is claiming a prescriptive easement because the point of diversion and transportation system have been in place for the last 50+ years.

The water rights were Decreed on May 21, 1981. 2009 aerial photography shows 143.0 acres of land being irrigated, forfeiture is not an issue.

Injury to Other Water Rights:

The transfer was advertised on June 15 and June 22, no protests were received. The watermaster for district 13A has not responded to the transfer notice letter. It is presumed the watermaster has no opposition to the transfer. No injury issues have been identified.

Enlargement of Use:

No 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 criteria set forth in Section 42-222 Idaho Code preventing processing of this application.