

MEMORANDUM

Date: December 06, 2010
To: Transfer 75499
From: bjordan
Re: Transfer Evaluation

This transfer proposes to change the point of diversion for water right 35-7557 and place of use for water rights 35-7557 and 35-7367. Applicants are seeking to bring in additional water from water right 35-7557 to cover additional acres being irrigated, which are not authorized under water right 35-7367. The total number of acres authorized under water right 35-7367 is 197.0. The applicants will bring in 15.3 acres from water right 35-7557 and rearrange the acres under 35-7367 to cover the 212.3 acres currently being irrigated. The applicants also seek to create a PPU of 240 acres. The applicants will be using an existing well.

Authority to File:

Applicants are the current owners of water rights per IDWR record and owner of land per Bingham County taxlot data.

Validity:

Water rights were decreed in 2002. In 2007, the department sent the applicants a Notice of Violation concerning the unauthorized use of water on three pivots, or a total of 177.0 acres located in the S1/2 and SWNE of Section 12, and the N1/2 of Section 13, 02S, 33E. The NOV required the applicants to provide restitution to replace the amount of water diverted illegally from the ESPA in 2006 by setting aside 177.0 acres during the 2008 irrigation season and pay a civil penalty. Part of coming into compliance with IDWR, the applicants had to identify 177 acres of water rights that would be set aside for the 2008 irrigation season. The applicant identified 20.2 acres from water right 35-7557 as acres that will be set aside for the 2008 irrigation season. The 20.2 acres from water right 35-7557 was to help provide restitution for the unauthorized irrigation of 177.0 acres located in the S1/2 and SWNE of Section 12, and the N1/2 of Section 13, 02S, 33E. However, the applicant proposes to use 15.3 acres from right 35-7557 to cover a violation found under 35-7557. The applicants are in the process of filing another transfer to cover the unauthorized use of water on a total of 177.0 acres located in the S1/2 and SWNE of Section 12, and the N1/2 of Section 13, 02S, 33E. Forfeiture is not an issue for right 35-7557. 2009 aerial photography shows more than 197.0 acres of land being irrigated under water right 35-7367. Forfeiture not an issue.

Injury to Other Water Rights:

Inside the ESPA and within WD 120. An ESPA analysis was provide by the applicants, which indicates that no ESPA model reach experiences increased depletions greater the 2.0 acre-feet per trimester. The department concurs with the applicants ESPA analysis. Transfer was advertised and there were no protests. Watermaster does not oppose transfer.
No injury issues identified.

Enlargement of Use:

No issues identified

Local Public Interest:

No issues identified.

M E M O R A N D U M

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.