

MEMORANDUM

Date: September 28, 2010
To: Transfer 74914
From: jcefalo
Re: transfer evaluation

This transfer proposes to correct an error in the legal description of the water right POU as described in an old decree. It is unclear from the decree whether the water right was to be used on both sides of the river or just the east side. Evidence suggests that the water right has only been used on the east side of the river (through the Sorensen Ditch) for a number of years. Even if the decree is not in error and the water was decreed on both sides of the river, The Retreat at Black Bear now owns the place of use on the west side of the river, and could pursue a transfer to simply move the place of use to the east side. Right 11-930 falls within the PPU boundary of Right 11-7599. However, given the relative irrigated acres under the rights, there is no actual overlap of rights.

Authority to File:

Applicant completed an ownership change on this water right in 2008. Private Capital Group has a security interest (mortgage) on the larger ranch property. Because the place of use is only being rearranged within the ranch property, approval of the security interest holder is not needed. Private Capital Group will be notified of the transfer approval when it is issued.

Water Right Validity:

This water right was used for irrigation in 2006 when available. 2009 aerial photography shows that the place of use is irrigated. Forfeiture is not an issue.

Injury to Other Water Rights:

Watermaster for Water District 11 does not oppose the transfer. Transfer was advertised and was protested by one individual. Protest was withdrawn without condition.

Enlargement of Use:

There is no evidence of enlargement of use.

Local Public Interest:

No issues identified.

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.