

MEMORANDUM

Date: May 03, 2010
To: Transfer 75868
From: bjordan
Re: Transfer Analysis

This transfer proposes to change the point of diversion and perform an ownership change for water right 35-14018. Applicant purchased approximately 8.6 acres of property located in the SWNW of Sec. 8, 05S, 32E. Prior to the transfer approval, water right 35-7990 was split into 35-14017 (39.4 acre split) and 35-14018 (8.6 acre split) for transfers 75868 and 75871. Also the applicant has a land easement with the BOR which allows them to farm on BOR property. The applicant proposes to have a permissible place of use of 10.5 acres. The applicant will be authorized to only irrigate 8.6 acres within the 10.5 PPU. A new well will be drilled.

Water right 35-7990 (split into 35-14017 and 35-14018) is one of four water rights which are authorized to irrigate 232 acres within a PPU of 542 acres. As part of the purchase agreement, the applicant only received a portion of 35-7990. The other rights are retained by the current owners. A companion transfer (75871) was filed at the same time to remove water rights 35-4179A, 35-4179B and 35-2009 off of applicants property and portion of BOR property (applicant retains easement on BOR property, see warranty deed).

Transfer 70513 was an approved transfer which allowed for a PPU of 542 acres. Rights 35-7990 (split into 35-14017 and 35-14018), 35-4179A, 35-4179B and 35-2009 were authorized to irrigate a total of 232 acres within the 542 acre PPU. Applicant should not be required to identify the acres to be irrigated since a PPU was approved before the new PPU standards and the fact that the PPU is only for 1.9 additional acres.

Authority to File:

Applicant is the current owner of the 8.6 acres (see warranty deed). Brenda Nugent signed the application.

Water Right Validity:

Decreed in 2002. 2009 aerial photo shows land to be irrigated. Forfeiture not an issue

Injury to Other Water Rights:

Inside the ESPA and within WD 120. POD change is within adjacent cells. No ESPA analysis needed. No mitigation will be required. No evidence of injury. Water master does not oppose approval of transfer.

Advertise to determine protest.

Enlargement of Use:

Christensen Bypass Trust holds 170 shares from Aberdeen-Springfield Canal Co. These shares irrigate approximately 170 acres within a 542 acre PPU. Water rights 35-7990, 35-4179A, 35-4179B and 35-2009 are authorized to irrigate 232 acres within the 542 acre PPU. Combined, Christensen Bypass Trust can irrigate 402 acres. According to 2009 aerial photography, there was approximately 382 acres irrigated on the Christensen Bypass Trust and BOR property. It appears that Christensen Bypass Trust needs to use their canal shares and water rights to their full extend in order to irrigate

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their property, which would make water right 35-7990 a primary right.
Prior to transfer 70513, water right 35-7990 was a primary water right which was within
Aberdeen-Springfield Canal CO service boundary. Supplementary conditions were placed on water
right 35-7990 as a result of a transfer (70513) and the fact that the ground water right 35-7990 would
be comingled with canal shares.
There is no evidence of an enlargement.

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.