MEMORANDUM

TO: Transfer Nos. 73816 and 75882

FROM: Kay Walker

DATE: October 20, 2009

RE: Evaluation of Sufficiency of Information Submitted

These transfers propose to change the place of use and amount of water per acre for changed place of use. Right 02-10013 was decreed for 34 acres of irrigation at 0.014 cfs per acre and 4.5 af per acre. The right holder proposes to move portions of the decreed right to dry land and use 0.02 cfs per acre on the new lands. In order to avoid expansion of the right, the applicant will reduce the number of acres under the decreed right proportionately.

The site is located 2 miles south of Givens Hot Springs on the west side of the Snake River and Owyhee Highway.

Contact person for the applicant is their representative, Paul E. Drury, P.E., of ERO Resources Corp. at (208)373-7983.

Deviations from Transfer Policy Standards

These transfers are difficult in that the applications are hard to understand. The intention of the applications is to create a new place of use of the water under the decreed right and increase the water per acre to one inch, thus reducing the number of acres that can receive water under the right to avoid expansion. The right has been split into 2 parts at this time. One part (02-10442) is the land owned under the name of Jaca Family Partnership LLC (9.5 acres at 1 inch per acre) and the remainder is land owned under Elias and Inez Jaca. The second right (02-10443) is a mixture of lands moved (10 acres in SWSW) and now allotted one inch per acre and all the remaining land (6.4 acres) under decreed right at 0.014 cfs per acre.

Summary of Information Submitted

Authority to File: The applicants are the decreed right holders. They have provided copies of their tax notices to document ownership of the lands. They have provided enough documentation to allow processing of these applications.

Water Right Validity: Right presumed to be valid because the partial decree was issued on *March 8, 2008,* within the past five year period.

Injury to Other Water Rights: There should be no injury to other water rights. Applications are to change place of use of decreed right and allow an inch of water per acre on lands to be added to system, reducing the number of acres to be irrigated proportionately.

Enlargement of Use: No enlargement of this right should occur. Pursuant to detailed split of right submitted by representative on 8/27/2009, there is no enlargement of this right projected.

Local Public Interest: It is within the public interest to allow the right holder to transfer this right to other properties owned and useable by applicant.

Beneficial Use/Conservation of Water Resources: The application proposes beneficial use(s) consistent with conservation of water resources in Idaho.

Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.

Additional Information

Watermaster comments are not applicable since there is no watermaster on the Snake River at this time.

Discussion

Data entry affected the correct record which is the water right based upon the partial decree issued in 2008.

Overlapping rights at proposed P/U are not a problem. The proposed place of use was previously dry acres that had never been irrigated. The existing place of use was also irrigated under Opaline Irrigation District water. Opaline shares will continue to be used by applicants on other properties.

Rights 02-10406, 02-10407, and 02-2266 overlap the point of diversion to be utilized. There is no change in point of diversion, the decreed right was also diverted from this point.

Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.