

MEMORANDUM

Date: July 17, 2008
To: Transfer 74926
From: jlarsen
Re: Transfer Evaluation

In the winter of 2007-2008 Chisty Allmon and Susan Barney contacted IDWR about changing portions of water rights 35-13427 35-13429 and 35-13430 that covered portions of land that they has bought from Steven Kauer. Immediately issues arose. The first being that the POD listed was across the road from the property and the new home owners wished to use there house wells. The second was that the POUs current shape did not match the acreages that were verbally promised to each of the buyers. Allmon and Barney contacted Kauer and he came to the Department help clarify the issues. Steve Kauer intended that even portions of water rights go to five of the parcels he had divided out of his property. See Map. Kauers retained Parcels 1 and 2. Parcel 3 was bought by Tom Strickland. Parcel 4 was bought by Christy Allmon and Parcel 5 was bought by Susan Barney. The original POU overlapped all five of these parcels. The Department explained that because there was no specific wording on any of the warranty deeds and that the purchases had already occurred that all four parties must agree in writing and sign and notarize such agreement. Kauer submitted a plan of splitting the rights however this plan would have caused enlargement issues thus the Joe Larsen under the guidance of Shelly Keen from the Department drafted two plans of how to split the rights without creating enlargements. In file dated 17Mar2008. The first plan was accepted by all parties as shown by the Division and Conveyance of Water Ownership document dated 01Apr2008 in File. The four transfers reflecting this agreement were received by the Department during the month of June 2008.

These transfers propose to split the rights 35-13427 and 35-13429 both into four parts each. 35-13427 was split into four equal parts while 35-13429 was split with three parts receiving one fifth and the fourth part receiving two fifths. The two fifths portion of right 35-13427 was retained by Steve Kauer one share to cover each of his two parcels. 35-13431 was not split and this was also retained by Kauer.

The plan by this Department was written to prevent enlargement thus instead of concentrating on the face values of the rights combined limits became the ruling factors in determining how splits should occur. The combine limits for the rights before split were 0.7 CFS 7.0 acres and 28.0 AFA. The oldest right is 35-13427 thus the CFS acres and AFA from this right were entirely used first and then the additional values needed to reach the combined limits were taken from the junior rights lessening the impact of water calls on the homeowners. Right 35-13431 was reduced in CFS to the amount necessary to meet the combined limits the remainder of that right will be forfeited to the State. If this forfeiture were not so this split would create an enlargement.

The other purposes of this transfer is to move the POD to the individual homeowners Domestic wells and to arrange the allowable irrigated acres on each parcel in a manner that is suitable to each new owner.

The rights covering Kauers parcels were not split per parcel because that was determined to be second transfer. If in the future Kauer decides that he would like them split then a second transfer would need to be filed along with the proper fee.

Authority to File:

M E M O R A N D U M

Applicant is the owner of record as far as a patial decree in the SRBA. And all parties agree to the changes to be made to all rights.

Water Right Validity:

This water right was recommended partially decreed in 2002 in the SRBA. Forfeiture is not an issue. Ground was partially irrigated around the houses that were being constructed starting in 2004.

Injury to Other Water Rights:

In Water District 120. Watermaster will comment.

Transfer will be advertised to determine any protests. In ESPA but running the model is not necessary because of the close proximity of the old and new PODs.

Enlargement of Use:

There is no evidence of enlargement of use. Combined limits will be maintained by using these values as those that govern how the rights are split.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

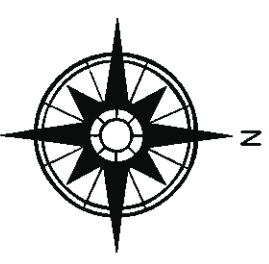
No issue identified.

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.

Kauer Land Split

Transfers:

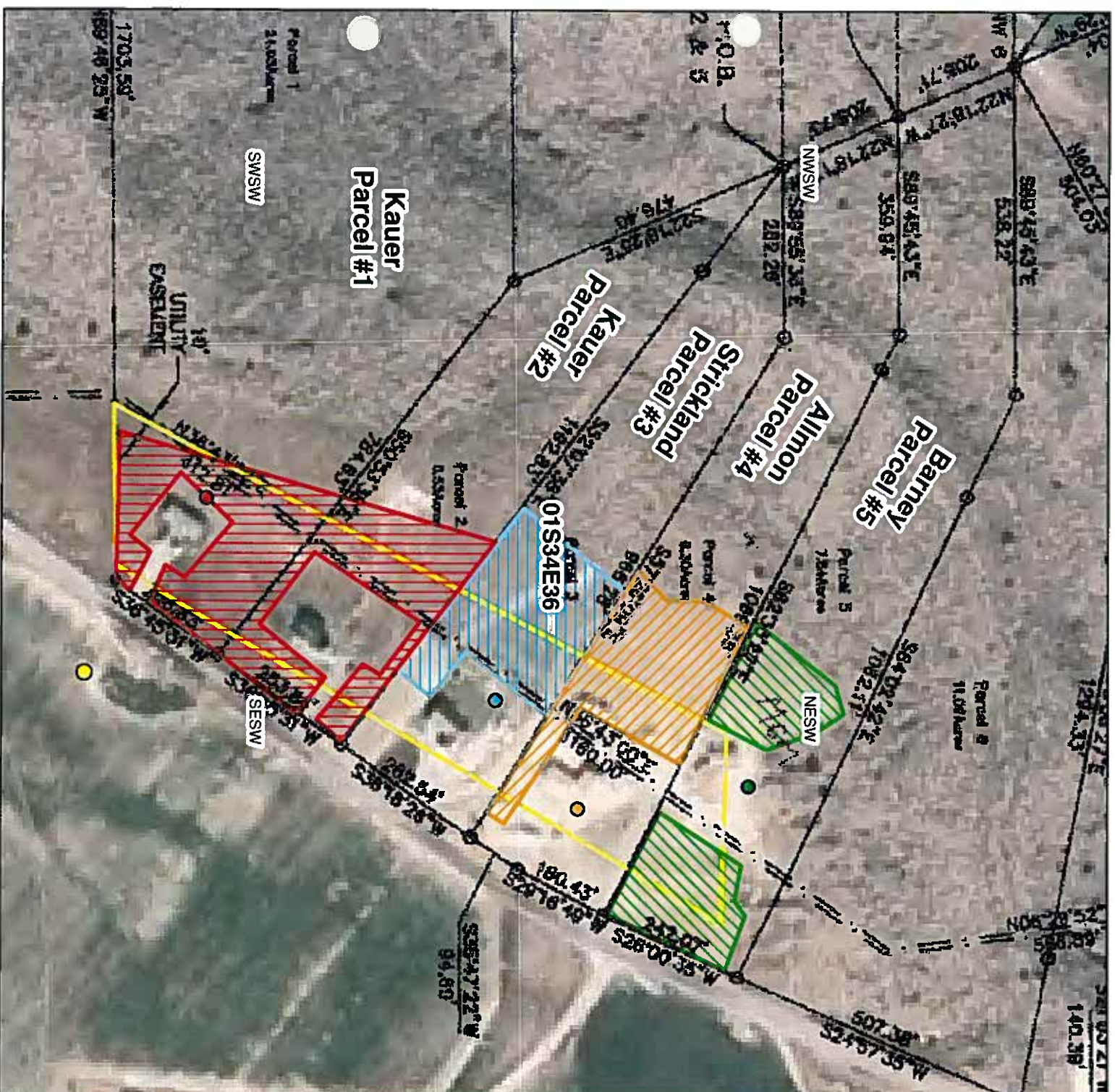
74924
74926
74927
74928



Legend

- Allmon POD
- Barney POD
- Kauer POD
- Strickland POD
- Original POD
- ▨ Allmon POU
- ▨ Barney POU
- ▨ Kauer POU
- ▨ Strickland POU
- ▨ Original POU

270 Feet



Division of Water Rights for Lands Divided by Steve Kauer

Plan Submitted by Steve Kauer				
Kauer	Water Right	CFS	Acres	volume
Parcel 1	35-13427	0.01	0.63 Total Acres	
Parcel 2	35-13427	0.01	1.27 Total Acres	
	35-13429	0.01		
Strickland	35-13427	0.01	1.90 Total Acres	
	35-13429	0.01		
	35-13431	0.01		
Allmon	35-13427	0.01	1.90 Total Acres	
	35-13429	0.01		
	35-13431	0.01		
Barney	35-13427	0.01	1.27 Total Acres	
	35-13429	0.01		
Totals		0.11	6.97	

Revised Plan by IDWR				
Water Right	CFS	Acres	volume	
35-13427	0.01	1.20	4.20	
35-13431	0.01	0.50	1.40	
Combined Limits	0.02	1.40	5.60	
35-13427	0.01	1.20	4.20	
35-13429	0.01	0.50	1.40	
Combined Limits	0.02	1.40	5.60	
35-13427	0.01	1.20	4.20	
35-13429	0.01	0.50	1.40	
Combined Limits	0.02	1.40	5.60	
35-13427	0.01	1.20	4.20	
35-13429	0.01	0.50	1.40	
Combined Limits	0.02	1.40	5.60	
Totals	0.10	7.00	28.00	

Right #	CFS	Ac*Ft	Ac
35-13431	0.02	4.00	1.00
35-13429	0.04	17.00	6.00
35-13427	0.05	21.00	6.00
Calc. Total	0.11	42.00	13.00
Combined Limits	0.10	28.00	7.00
CFS/Ac	0.0143	70.00	

Note: This data from Proof Reports printed on 2/28/2008

Alternate Plan by IDWR				
Water Right	CFS	Acres	volume	
Kauer Parcel 1	35-13427	0.01	0.70	4.20
Combined Limits	0.01	0.70	4.20	
Kauer Parcel 2	35-13427	0.01	0.70	4.20
35-13429	0.01	0.70	1.40	
Combined Limits	0.02	1.40	5.60	
Strickland	35-13427	0.01	0.70	4.20
35-13429	0.01	0.70	1.40	
35-13431	0.01	0.30	0.70	
Combined Limits	0.02	1.70	6.30	
Allmon	35-13427	0.01	0.70	4.20
35-13429	0.01	0.70	1.40	
35-13431	0.01	0.30	0.70	
Combined Limits	0.02	1.70	6.30	
Barney	35-13427	0.01	0.70	4.20
35-13429	0.01	0.70	1.40	
Combined Limits	0.02	1.40	5.60	
Totals	0.09	6.90	28.00	