

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 8/8/2007

RE: PAUL T. BROOKS TRANSFER NUMBER 74008

The transfer proposes to change the point of diversion to a proposed well and move his 10-acre portion of the water right onto his 40-acre parcel. The original point of diversion is located 4/5 of a mile northeast from Simco Rd and North Cinder Cone Butte Rd, also described as the SESE S23 T2S R4E. The point of diversion will be moved 1/4 mile northwest to the proposed well site in SWNWSE S23 T2S R4E, Elmore County. The irrigation located 1/2 mile east of Simco Rd and north of Cinder Cone Butte Rd will be remain in the same general area on the applicant's property in NWSE S23 T2S R4E, Elmore County.

AUTHORITY TO FILE:

Eisenman Family Trust originally filed this application along with eight others in 2005. All of the transfers were placed on hold. The original property had already been subdivided and the individual parcels were subsequently sold. The Eisenmans changed the names on all the applications except for the portion of the water right for which they retained of the ownership, and each owner signed a second signature page putting the transfer into each individual lot owner's name. A correction warranty deed was supplied showing the amount of water each lot was allotted and the change of property ownership. Therefore, it appears as though there should be no further issues with ownership of these water rights.

WATER RIGHT VALIDITY:

A Snake River Basin Adjudication (SRBA) partial decree was issued on this right on 10/26/2000, and the 2004 aerial photography available to the department clearly shows the ground was irrigated.

INJURY TO OTHER WATER RIGHTS:

This property has been irrigated for several years, and the water will be moved to lands within the same section, therefore, injury is not anticipated.

ENLARGEMENT OF USE:

This application only requests to move the point of diversion and place of use. No enlargement proposed.

LOCAL PUBLIC INTEREST:

This property has already been split through the county process, so no public interest issues are anticipated.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

Applicant proposed beneficial use consistent with department standards for the area.

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

NARATIVE

This transfer is part of a package of 9 transfers, in which the previous owner split their 240-acre farm into 8 parcels. Through the sale of the property, the previous owner divided up water right 61-11965 that allowed each of the 8 new lots to irrigate $\frac{1}{4}$ of their lot size. In this transfer, the owner has a 40-acre lot and was given 10 acres worth of the water right for irrigation. The previous owner is proposing to move the left over water to property he owns in Section 11.

PLEASE NOTE: The water right was split through a pre-transfer change of ownership split to allow all 9 transfers to be processed at the same time. Therefore, this transfer will only be on the owner's portion of the pre-transfer split.

The original water right only covered 106 acres of the original 240-acre farm, so the place of use for each right must be moved and adjusted to fit each parcel. Many of the lots have yet to be developed and the ones that have been developed, haven't designated exactly what ground they plan to irrigate. Therefore, the acres allotted to each parcel were placed into a permissible place of use.

The parcel associated with this transfer has been developed. The applicant will use his domestic well to provide the irrigation. The Eisenmans have paid the well upgrade fee to expedite the transfer. There are no overlapping water rights on this property, so there shouldn't be any issues in that regard.

CONDITIONS AND SUGGESTIONS

Unless this transfer is protested, this proposal seems to be approvable with the inclusion of the conditions on the draft approval.