

Comment Report

Application ID 73327

1. jroberts 3/21/2007 Special Administration Area Notes

Comment: Special Administration Areas : Eastern Snake River Plain Area
(Moratorium Area)

Exempt: Y

Reason:

Doc Attached:

Explanation: Transfer

Special Administration Areas : Raft River (Critical Groundwater Area)

Exempt: Y

Reason:

Doc Attached:

Explanation: Transfer

Special Administration Areas : Trust Water Area (Trust Water Area)

Exempt: Y

Reason:

Doc Attached:

Explanation: Transfer

2. jroberts 3/21/2007 Additional Information Notes

Comment: Reviewed by Adjudication Staff: N/A

Mitigation Plan or acceptance form: N/A

Municipal Rights Anticipated Horizon Information: N/A

3. jroberts 3/21/2007 Legal Notice Remarks

Comment: Transfer changes the place of use of two water rights and the diversion of a combined total of 0.88 cfs and 170.4 AF from Holt Creek and Cemetery Spring for stockwater and the irrigation of 42.5 acres in T16S, R26E, Sections 26 and 27 directly south to a permissible place of use of 74.9 acres in T16S, R26E, Sections 22 and 23. Location is approximately 21 miles south and 2 miles west of Malta, which is about 1 mile north of the Idaho/Utah border near Stanrod.

4. jroberts 3/21/2007 Comment/Analysis

Comment: M E M O R A N D U M

Date: March 21, 2007

To: Transfer 73327 File

From: Jeanie Robertson

Re: Evaluation of Sufficiency of Information Submitted

Transfer 73327 proposes to change the place of use on two irrigation rights, 43-2237 and 43-4083. Previous transfer 67119 was approved in 2001 on these two rights and also 43-4084. It changed the place of use on all three rights from Sections 26 and 27, T16S, R26E and created a ppu of 64 acres in Sections 22 and 23, T16S, R26E, the two sections to the north. Apparently the actual change in irrigation of the place of use never happened and the property in Sections 26 and 27 was sold to the Koellings, applicants of this transfer. They came in to do an ownership change on two of the rights and found that the property they had purchased had no water rights. The sellers (Gochnours) said that since the change never happened, they assumed the water stayed in Sections 26 and 27. The rights were decreed in Sections 22 and 23, however, so a transfer is necessary to correct the place of use. (The sellers also retained one of the three rights [43-4084] and it will remain on Sections 22 and 23 and will be included in the transfer as an associated right so we can remove the combined-limit-with-the-other-rights remarks. I updated the ownership and correspondence flags on this right so they will receive notice but did not answer the other questions since they did not seem to apply.) 43-4084 was limited to 21.5 acres so these acres were removed from the ppu of 64 acres, leaving the applicants 42.5 acres to move back. I reduced the diversion rate on 43-4083 to 0.85 cfs and the volume to 170.0 AF as the right was decreed at an inch per acre and 4 AF/ac. I also included an extra X35 remark to show the combined limits of 43-2237 and 43-4083 with and without the stockwater. Quitclaim deeds were provided from the Gochnours to the Koellings for the two water rights.

· Authority to File:

Applicants own the property where they are moving the water to according to Warranty Deed and Cassia County Tax Lot information. There is a lien holder on the property that has provided a letter approving of the proposed transfer. (I requested another letter from the lien holder mentioning the irrigation rights in the transfer instead of the domestic right mentioned in the first release.) I confirmed with the Cassia County Assessors office that the Gochnours still own the property they retained in Sections 22 and 23. I could not reach the Gochnours, as their phone has been disconnected, to ask whether or not there was a lien holder on the property they are retaining and from which they are removing two of the rights. Mr. Koelling said he did not think the Gochnours had a lien holder because when he purchased his portion he was under the impression that the Gochnours were going to pay the remainder of the property off. They even offered to carry a contract at 5 % interest if Koelling wished to buy the remainder of the property from them and he did not think they would do that if they still had a loan.

· Water Right Validity:

- Water Right Validity:

Water right 43-2237 was decreed on 8/15/2002 and right 43-4083 was decreed on 6/28/2002. Since there has not been five years since the decrees, forfeiture should not be an issue.

- Injury to Other Water Rights:

None anticipated.

- Enlargement of Use:

None if appropriate conditions and limits are implemented.

- Local Public Interest:

No negative impacts anticipated.

- Beneficial Use/Conservation of Water Resources:

Proposed use is recognized as beneficial use of water. The applicants are working with Farm Service to develop an irrigation plan for the 42.5 acres. At this point, they were not sure of the actual location so they chose a larger ppu to work within.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

