

MEMORANDUM

Date: September 26, 2005
To: Transfer 72152 File
From: Jeanie Robertson
Re: Evaluation of Sufficiency of Information Submitted

Transfer proposes changing the place of use of irrigation right for 90 acres. It was submitted by Hill Top Dairy, C/O Danny C Vanderham and signed by he and his wife, Marjean. The right was decreed in the SRBA but a dairy was subsequently built on part of the property and the decreed place of use no longer matches the actual acres being irrigated today. The transfer will correct that. The place of use and point of diversion are located approximately 4.0 miles south and 5.0 miles west of Wendell and are within Water District 130.

- **Authority to File:**

The water right is currently in the name of Danny and Marjean Vanderham, address in Corona California. The applicants submitted a copy of a Certificate of Assumed Business Name filed with the Secretary of State as Hill Top Dairy in Wendell, Idaho. A copy of a Grant Deed was also submitted from the Vanderhams to Hill Top Dairy, resulting in an ownership change.

- **Water Right Validity:**

The base right for the transfer was decreed in the SRBA in December of 1997, the NPT order issued on 12/4/2001. Aerial photos show the dairy was built and the pivot irrigation system for the 90 acres at the current place of use was in place by at least the summer of 2002, so forfeiture does not seem to be an issue. (The North Snake GW District told the applicant that his water right decreed place of use did not match his current irrigation practices and encouraged him to file a transfer to clean things up.)

- **Injury to Other Water Rights:**

None anticipated.

- **Enlargement of Use:**

I found an agreement of sale from 1974 in the water right file that mentioned 90 shares of Northside Canal Company water associated with this property. According to Terry at the NSCC office, 70 shares were sold off in 1981 and 10 shares sold off in 1992. (I'm not sure where the other 10 shares may have gone, but she shows no shares associated with this property now. When the original claim was filed in 1988, it mentioned 10 canal shares.) Vanderham bought the property in 1991. The partial decree was originally issued in 1997; the NPT was issued on 12/5/2001. The decree states the right is combined with water from the NSCC. In reality, there probably were no canal shares left by the time the decree was actually issued. This transfer is proposing to move the water to lands that have 80 shares associated with them, although the applicant told his consultant that he doesn't use any canal water on these acres. This was confirmed by the NSCC who said the water is leased elsewhere. As far as enlargement goes, any enlargement probably happened before the adjudication, when the shares were sold off and the groundwater right became primary.

- **Local Public Interest:**
No negative impacts anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.

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.