

MEMORANDUM

Date: July 26, 2024
To: Transfer 89016
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

In March 2024, the Department approved Transfer 88739, which added a new point of diversion to water rights 35-13524 and 35-14391. These rights are used for commercial and stockwater use at a dairy. The new point of diversion was in the SWSE, Section 36, T04N, R35E. The new well has not yet been constructed. On April 29, 2024, Cannon Shelly Property Limited Partnership (Cannon) filed three separate applications. One application proposed to change the point of diversion and place of use for a 135-acre portion of water right 35-7623 and change the nature of use for the split portion from irrigation to stockwater. Water right 35-7623 was split prior to the transfer. The split portion was assigned right no. 35-14873. Another application proposed to change the point of diversion and place of use for a 48.7-acre portion of water right 35-13523 and change the nature of use for the split portion from irrigation to stockwater. Water right 35-13523 was split prior to the transfer. The split portion was assigned right no. 35-14872. The third application proposed to add a point of diversion to water rights 35-13524 and 35-14391, referenced above. The proposed points of diversion and places of use for the three applications were identical. Therefore, the three applications were combined into a single application (Application 89016).

The point of diversion added to water rights 35-13524 and 35-14391 through Transfer 88739 and the point of diversion proposed to be added through this transfer were both in the SWSE of Section 36, 50 feet apart, right on the QQ line between the SWSE and SESE. The Department published notice of Application 89016, describing two points of diversion in the SWSE of Section 36. After the application was advertised, Cannon reviewed the site plan for the dairy expansion and discovered that the proposed pump station for the two wells (the POD added through Transfer 88739 and the POD added through Application 89016) was actually on the other side of the QQ line in the SESE of Section 36. Cannon filed an amended application correcting the error. Because the original proposed well site and the amended proposed well sites are less than 500 feet from each other, and the wells have not been drilled, and neither application was protested, and there are no other wells within 1/2 mile of the proposed wells (except for Cannon's own wells), and the change will not change the hydraulic effect on the source for the right, I decided that the amendment does not need to be sent through the public notice process.

Authority to File: Cannon is the owner of record for water rights 35-13524, 35-14391 and 35-14872. SJC Properties LLC (a separate entity owned by Seth Cannon) is the owner of record for water rights 35-14873. Rob Harris, attorney for Cannon and SJC Properties signed all three original applications and filed the amendments. Cannon has the authority to file.

Water Right Validity: All water rights were decreed in 2002. Aerial imagery and pumping records from Water District 120 show consistent use of the rights.

Injury to Other Water Rights: No injury identified. The Department published notice of the consolidated application and no protests were filed. The watermaster for Water District 120 provided comments about pumping volumes, which are addressed in the enlargement analysis below.

Enlargement of Use: Application 89016 proposes to change the nature of use for water right 35-14872 and 35-14873 from irrigation to stockwater. The application included calculations of maximum consumptive use occurring under the irrigation use using the Department's ET Viewer. The watermaster

for Water District 120 stated a concern that the CIR volumes calculated by the applicant exceed the volume of water actually pumped in the highest year. Further, ET Viewer analysis from the applicant only evaluated the CIR at a point within the acreage to be changed rather than looking at the entire acreage. I conducted a separate analysis using the ET Viewer and WMIS records.

For water right 35-14872 (split from 35-13523), Cannon proposes to convert 48.7 acres from irrigation to stockwater. The highest CIR and diversion volume in recent years occurred in 2021. The 2021 CIR for all of water right 35-13523 was 1,732 acre-feet. Diversion records (WMIS #200145) show that Cannon diverted 1,660 acre-feet under water right 35-13523 in 2021. Therefore, actual diversion was 95.8% of CIR ($1660/1732 = 0.958$). Using the Department's ET Viewer, the CIR for the acres being changed was 137.8 af. $137.8 \text{ af} \times 0.958 = 132 \text{ af}$.

For water right 35-14873 (split from 35-7623), Cannon proposes to convert 135 acres from irrigation to stockwater. The highest CIR and diversion volume in recent years occurred in 2021. The 2021 CIR for all of water right 35-7623 was 736 acre-feet. Diversion records (WMIS #200283) show that Cannon diverted 624 acre-feet under water right 35-7623 in 2021. Therefore, actual diversion was 84.8% of CIR ($624/736 = 0.848$). Using the Department's ET Viewer, the CIR for the acres being changed was 340.6 af. $340.6 \text{ af} \times 0.848 = 290 \text{ af}$.

In total, the application proposed a stockwater volume of 620.8 acre-feet. Based on diversion records and ET Viewer data for the acres being converted, the Department can only approve the transfer for 422 acre-feet to prevent enlargement of the rights. The approved volume, 422 acre-feet, is still sufficient to provide stockwater for more than 30,000 cattle for an entire year, far greater than the transferred rate would support. In other words, the stockwater rights are restricted by rate rather than volume.

Local Public interest / Beneficial Use/Conservation of Water Resources: No issues identified.

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.

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2023		567.07		
2022		491.13		
2021		624.14		
2020		572.90		
2019		611.94		
2018		565.18		
2017		571.70	599.89	
2016			733.83	
2015			606.35	
2014			431.68	
2013			607.81	
2012			437.85	
2011			625.00	
2010			468.00	
2009			506.00	
2008			765.61	
2007			854.92	
2006			466.53	
2005			505.18	
2004			572.00	
2003			589.90	
2002			693.70	
2001			0.13	
2000			428.18	
1999			356.96	
1998	324.9		362.63	
1997			352.88	

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Report Year	Alternate	FM	PCC	Time Clock
2023		948.76		
2022		1274.98		
2021		1659.59		
2020		1573.48		
2019		1342.66		
2018		898.38		
2017		683.25	1184.57	
2016			2436.04	
2015			2594.31	
2014			2084.20	
2013			2049.95	
2012			2814.01	
2011			836.50	
2010			799.48	
2009			1177.00	
2008			1321.69	
2007			1312.85	
2006			1236.81	
2005			1326.57	
2004			1357.90	
2003			1184.40	
2002			1084.80	
2001			1278.70	
2000			1423.62	
1999			860.23	
1998	803.1		1143.60	
1997	1040.0		1088.22	