

MEMORANDUM

Date: December 17, 2024
To: Transfer 89182
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer changes the nature of use, period of use, place of use, point of diversion, and adds points of diversion to a 28 acre portion (0.25 cfs/50.8 AFA) of right 22-7075.

Authority to File:

The applicant, Richard F. Smith, has the authority to file. According to Department records, the applicant owned the water right at the time the transfer was submitted. Madison County parcel data also indicates that the applicant owned a majority of the pre-transfer place of use. Approximately 2.5 acres are exceptions, located in the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 29. These parcels are owned by Harvest Heights, LLC; Edge Holdings, LLC; and Michael and Julie Stears (Lot 10 Block 1). Richard Smith is listed as the registered agent for Harvest Heights, LLC, per the Idaho Secretary of State. A chain of deeds included in the application shows that the property owned by Edge Holdings, LLC, changed ownership before the 2009 decree, which assigned the water right to Richard Smith. Finally, a 2019 Warranty Deed from Richard and Jill Smith to Harvest Heights, LLC, demonstrates that the Smiths retained ownership of the water right on Lot 10 Block 1 prior to the property being sold to the Stears. Richard Smith signed the application.

The post-transfer place of use is the City of Rexburg Municipal Service Boundary. The post-transfer points of diversion are used by the City of Rexburg for Municipal Use.

Jerry Merrill, mayor the City of Rexburg, enclosed a letter in the application that authorized the transfer. Ownership was not updated as part of this transfer. An ownership change will be filed after transfer approval.

Water Right Validity:

The water right was decreed in 2009. 19 of the 28 acres authorized for transfer were leased to the Water Supply Bank (WSB) at the time of transfer submittal. These acres have been released from the WSB. The remaining acres have been consistently irrigated according to aerial photography.

Enlargement of Use:

Prior to the transfer, irrigation of potatoes and grain occurred under the water right. Grain uses the higher volume of the two crops, at 553 mm/year precipitation deficit, which converts to 1.814 ft/year/acre. This equates to 50.8 AFA on 28 acres and is the consumptive volume proposed for transfer.

Prior to the transfer, the water right contained combined limits with 22-2184, 22-2230, 22-11147, and 22-11149 ("associated rights"). However, they are additive. The number of irrigated acres was directly additive, and the combined volume was limited to the standard of 3.5 AFA. The combined diversion rate per acre was 0.009 cfs/acre, identical to the rate per acre authorized under right 22-7075. The combined limit conditions to the remainder of 22-7075 and the associated rights were updated to reflect the transfer of 28 acres under right 22-7075.

A second combined limit included 22-7507, the associated rights, and 22-7075, limiting their total diversion to 10.85 cfs. While 22-7507 shares pre-transfer points of diversion with the associated rights and 22-7075,

it has a separate place of use. To prevent enlargement, the second combined limit was reduced by 0.25 cfs to reflect this transfer. There are no enlargement of use issues at this time.

Injury to Other Water Rights:

The transfer was advertised and no protests were received. The Watermaster for Water District 100 was notified of the transfer and did not oppose its approval. Two simulations were performed in ESPAM, where 16.9 AF/trimester was pumped: 1) from the wells farthest to the north, and 2) from the wells farthest to the west. The results of both simulations indicate that no mitigation is required. There are no injury issues at this time.

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.