

MEMORANDUM

TO: Transfer No. 88632
FROM: Bob Howe, Water Resource Agent, Sr.
DATE: 11/28/2024
RE: Evaluation of Application

Application 88632 proposes to move a 5.6-acre portion of the 16-acre irrigation place of use (POU) for water right (WR) 78-12240, diverting from Shingle Creek. If approved, the transfer would move a portion of the POU downstream and in closer proximity to Shingle Creek, on an adjacent parcel owned by Dane Hansen, southeast of the decreed POU. The applicant stated that the transfer POU is the historical place of use for irrigation occurring through WR 78-12240, and that the decreed POU was an error. No change is needed to the point of diversion northwest of both the decreed and proposed transfer POUs. The proposed transfer would split the right to allocate the 5.6 acres of irrigation overlapping the parcel the applicant previously sold to Dane Hansen. The remaining 10.4 acres of irrigation was applied for in this transfer and upon approval would remain within the POU for WR 78-12240.

Historic imagery seems to support the applicant's claim that the any beneficial use occurring through right 78-12240 was not at the decreed POU and could have been at the proposed transfer POU. Based on the information reviewed in the application the change proposed should not change the effect of the diversion on the source or hydraulically connected sources.

Authority to File:

The transfer application was signed by Raymond R. Hamell, who is both applicant and the owner of record for WR 78-12240. Emailed correspondence from the applicant stated that an ownership change will be submitted to convey the proposed transferred portion of WR 78-12240 to Dane Hansen, owner of the parcel appurtenant to the transfer POU. There are no concerns regarding the authority to file the transfer.

Water Right Validity:

Water right no. 78-7010 is the parent of rights 78-12240 and 78-12241, both decreed in 2007. The parent right POU covered much of the southeast quarter of section 1. Except for a few low-lying areas, historical Landsat satellite imagery and NAIP imagery exhibit little evidence of irrigation within the decreed POU for WR 78-12240. However, Landsat and NAIP imagery of the area to the southeast of the POU (the transfer POU) shows significant vegetation within the proposed transfer POU. On the application the purpose of the transfer is described as moving a portion of the existing water right "to the location of original use." Additional written correspondence from the applicant asserted that historic use of the right has been within the proposed transfer POU. It is reasonable to believe that beneficial use occurred in the last 5 years within the proposed transfer POU.

Injury to Other Water Rights:

There are no other rights overlapping the proposed transfer POU. Transferring a portion of a POU to the area where beneficial use occurred under a right historically without changing the point of diversion would not result in any reduction of the water available locally.

SUPPORT DATA
IN FILE # 78-12240

Enlargement of Use:

The portion of WR 78-12240 transferred would be for a proportional rate and volume per acre stated on the decreed right. No other rights overlap the proposed Transfer POU. There are no concerns regarding any enlargement due to a portion of the POU being transferred locally.

Local Public Interest:

The application proposes to continue a use of water that has been decreed by the SRBA court. The change proposed by the application should not change implementation of the water right in such a way that is not in the local public interest.

Beneficial Use/Conservation of Water Resources:

WR 78-12240 authorizes beneficial use of water within acceptable standards for irrigation, and the application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Discussion

The proposed transfer will correct the POU to better represent the historic beneficial use of WR 78-12240. The transfer of this portion of the POU would allow the current owner of the parcel appurtenant to the transfer POU to update the ownership for a portion of the decreed right. Approval of this transfer would result in a more accurate representation of beneficial use occurring through WR 78-12240.

If approved the following changes should be made to the conditions of water right no. 78-12240:

- Add conditions 01Q and R64 per current guidance.
- Remove condition C05 per current guidance.
- Update condition C18 to T19.
- Add standard transfer conditions T07 and T08

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.