

MEMORANDUM

Date: August 26, 2022
To: Transfer 86091
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the points of diversion for water rights 75-14567 & 75-14569, that divert from Lake Creek and the Salmon River, to a single diversion on the Salmon River. The proposed point of diversion is adjacent to the place of use and downstream from the current points of diversion and downstream of the confluence of Lake Creek and the Salmon River. The transfer also corrects an internal place of use discrepancy between the two stacked water rights. The proposed place of use of 2.8 acres reflects the actual division of acres between the SWNW and SENW of Section 36.

Authority to File:

The applicant is the current water right owner of record. Lemhi County tax lot data shows the applicant as the owner of the current place of use and the proposed point of diversion. The applicant has authority to make the change.

Water Right Validity:

The rights included in this transfer were decreed in the SRBA in 2008. Review of aerial photography does not show evidence of irrigation on the place of use. I sent the applicant a request to submit exceptions or defense of forfeiture. They responded with a statement from the previous owner of the land and water right, Cathy Szumigala. This statement explains that the place of use was irrigated in 2008 through 2021 from May through October from either the ditch or the Salmon River. The department does not have clear and convincing evidence of forfeiture at this time.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. The quantity authorized to be diverted will not change as a result of the transfer. The Water Master for Water District 170 was notified of the change and did not provide a comment. The transfer was advertised with no protest.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor volume nor irrigated acreage will increase as a result of the transfer. Water right 75-4033G overlaps the property. I talked to the applicant over the phone about this overlapping water right. He asserted that this shape is incorrect, and that the entirety of the water right belongs to the Brady Dowding his next-door neighbor. The applicant spoke to the Dowding's and made them aware of the issue and encouraged them to file a transfer to have it fixed.

Local Public interest:

No issues identified.

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.