

MEMORANDUM

Date: June 10, 2022
To: Transfer 86045
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This application proposes to change the place of use and point of diversion for a 24-acre portion of rights 29-2328 and 29-12566, a 4-acre portion of right 29-2426B, and a 24-acre portion of right 29-7190 to create a 52.0 acre combined place of use. The point of diversion for the split portion of water right 29-12566 will not change.

Authority to File:

The applicants, Bradley and Cathy Hoggan, have the authority to file. Bradley and/or Cathy are the current owners of record for the water rights. The existing places of use for rights 29-2328 and 29-12566, 29-2426B, and a portion of 29-7190, are owned by the applicants, according to Bannock County taxlot data.

A portion of the existing place of use for 29-7190 is owned by Derrick Mossler, according to Bannock County taxlot data. 29-7190 was decreed in 2004 to J. Kelly Fly in 2004. A 2019 Warranty Deed, Instrument No. 21910423, conveyed the entirety of water right 29-7190, but only a portion of the authorized place of use for the right, from Fly to Hoggan. The portion of the place of use not owned by Hoggan is owned by Mossler. I notified Mossler of the transfer by letter and asked him to provide documentation of ownership. Mossler did not respond to the letter. Applicants own the property at the proposed points of diversion and place of use. The application was signed by Thomas Budge, attorney for the applicants.

Water Right Validity:

The water rights are valid for transfer. They were all decreed in 2004. Review of aerial photography demonstrates consistent irrigation of the existing place of use for 29-2328 and 29-12566. Water right 29-2426B was recently transferred to its existing place of use through Transfer 82144, approved in 2018. Aerial photography demonstrates consistent irrigation of the existing place of use for water right 29-2426B. Aerial imagery does not conclusively demonstrate consistent use of 29-7190. Evidence of use was instead confirmed through a review of remote sensing data (Climate Engine) and power records from Rocky Mountain Power. Rocky Mountain Power records for the point of diversion (Site ID 707842226) indicated some usage of the pump each year. The Department does not have clear and convincing evidence of forfeiture.

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer's approval. The Watermaster for Water District 29H was notified of the transfer (for water right 29-12566) and did not respond. The transfer was advertised and no protests were received.

Enlargement of Use:

No enlargement of use will result from this transfer's approval. Rate, volume, nor irrigated acres are authorized to increase.

Local Public Interest / Conservation of Water: 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.