

MEMORANDUM

Date: July 8, 2022
To: Transfer 86304
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This application proposes to change the point of diversion for ground water rights 34-14081 and 34-14083. Currently, these rights list six points of diversion (ground water wells) located on ground not owned by the water right holders, Bryon and Tiffani Cottrell. The Cottrells do not have legal access to any of the existing points of diversion. The proposed point of diversion is located on Cottrell's property.

Authority to File: Bryon and Tiffani Cottrell are the current owners of record for water rights 34-14081 and 34-14083 and the existing place of use for the water rights. The proposed point of diversion will be within the existing place of use. Cottrell's have demonstrated the authority to file the transfer application.

Water Right Validity: Water rights were decreed in 1998. Aerial imagery does not show any obvious signs of irrigation from 1998 to today. The property now owned by Cottrell was split off of the main farm by 2002, less than five years after the decree. Once the Cottrell property was split-off, it became physically and legally disconnected from the authorized points of diversion for water rights 34-14081 and 34-14083. As of 2002, the only way to irrigate the property would be to drill a separate well on the property. The Department has recognized losing legal access to a point of diversion as a circumstance beyond the control of a water user. The Department does not have clear and convincing evidence of forfeiture at this time.

Injury to Other Water Rights: No issues identified. The proposed point of diversion is located less than one mile from the existing points of diversion. Because the existing points of diversion and proposed points of diversion are located in the same or adjacent ESPA model cells, there is no need to run the ESPA Transfer Tool. Application was advertised and no protests were received. Watermaster for Water District 34 was notified of the application and did not provide comment.

Enlargement of Use: No issues identified. Water rights 34-14081 and 34-14083 are combined with Big Lost River rights 34-14079 and 34-14085. These rights already bear combined use conditions. Because the place of use will not change, the associated rights will not change.

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.