

## MEMORANDUM

**Date:** May 25, 2022  
**To:** Transfer 85954  
**From:** Michael Holliday  
**Re:** Review & Evaluation of Sufficiency of Information

This transfer originally proposed to change the point of diversion and place of use of ground water right 34-7090A and to rearrange the place of use of the four surface water rights already existing at the proposed place of use. Upon review of the 3 Big Lost River rights, two errors were discovered in the decreed points of diversion. The point of diversion for the Vanous Ditch was decreed to the wrong QQ, and the point of injection was decreed to the wrong QQQ. To correct these errors the applicant amended the transfer to remove the 10-acre tract from the point of injection and to remove the Vanous Ditch as a point of diversion because it is no longer used. Since there is no physical change the amended transfer will not need to be advertised again.

Right 34-7090A currently shares a combined place of use with 7 other rights. Those rights will be brought into the transfer as associated rights in order to change the combined limit conditions.

### Authority to File:

IDWR records show the applicants as the current owners of the water rights included in the transfer. Custer County parcel data confirm the applicants' ownership of the proposed new point of diversion as well as the current and proposed places of use.

### Water Right Validity:

Right 34-7090A was decreed in the SRBA in 1997, and the surface water rights were decreed in 2001. Aerial imagery shows regular irrigation of the current place of use for right 34-7090A. At the current place of use for the 4 surface water rights, aerial photos show growing vegetation in 2009, 2011, and 2017. Because the most senior rights carry an 1886 priority date, there would have been some years when the surface water rights would have only been available in the spring, and irrigation may not have been evident in the available imagery. Forfeiture is not an issue.

### Injury to Other Water Rights:

Other water rights should not be impacted by the proposed changes. The ESPA model showed impacts of less than 2 AF per trimester in each Snake River reach. The transfer application was advertised, and no protests were filed. The Water District 34 watermaster did not oppose approval of the transfer.

### Enlargement of Use:

Right 34-7090A is currently limited to 189.5 acres within a 228.5-acre combined place of use that includes 7 surface water rights. Right 34-7090A is proposed to be stacked with 4 surface water rights at its new location. At the current place of use the most reliable rights are 34-7090A and 34-119E (an 1884 priority right limited to 48 acres). At the current place of use these 2 rights could irrigate 228.5 acres. At the proposed place of use, right 34-7090A would be limited to 112 acres. If the transfer were approved the most that could be irrigated by the 2 most reliable rights would be 160 acres. The transferred and associated rights added together have a total diversion rate of 10.26 cfs. In order to prevent enlargement, the transferred rights will include a condition limiting the total diversion rate to 3.40 cfs.

### 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.