

MEMORANDUM

Date: September 30, 2021
To: Transfer 85246
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the point of diversion for water right 34-14849.

Authority to File:

The applicant is the current water right owner of record. Custer County tax lot data shows the applicant as the owner of the place of use. Based on department records, the applicants have authority to make the change.

Water Right Validity:

The right included in this transfer was decreed in the SRBA in 2002. There is no evidence of use from 2002 to today. According to the chain of deeds, the Crows Nest Estates Subdivision was created and lots sold off prior to the SRBA partial decree in 2002. The deeds to the applicants and their predecessors in interest did not include an easement to the original point of diversion. From 2002 to today, the water right holders did not have legal access to the point of diversion. The Department has recognized this as a valid defense to forfeiture for other owners within the subdivision. Given the potential defense to forfeiture, 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 ESPA Model analysis is not needed, since the point of diversion is moving within the same cell. The water master was notified and did not provide a comment. The application was advertised and did not receive protests.

Enlargement of Use:

The proposed change will not result in enlargement because neither rate nor volume nor irrigated acreage will increase as a result of the transfer.

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.