

MEMORANDUM

Date: September 7, 2021
To: Transfer 84908
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the place of use and point of diversion for portions of ground water rights 34-2304, 34-4010, 34-7025, 34-12378 and 34-13829. The portions of the rights to be changed are currently enrolled in the Water Supply Bank. Water rights 34-2304 and 34-7025 share a common place of use. Water rights 34-12378 and 34-123829 share a common place of use. The WSB leases for these rights extend to the end of 2023. According to the application, the portion of the rights in the WSB will remain in the bank after the transfer approval. The right holders will file the proper documents with the WSB if they intend to use the rights prior to 2023.

Authority to File:

The applicants, Loy and Byron Pehrson, have the authority to file. One or both are the current owners of all of the water rights in the transfer application. Loy and Byron signed the application.

The pre-transfer places of use of the portions to be transferred are owned by one or both applicants, according to the relevant Butte or Custer County taxlot data. There was some questions about ownership of a 2.1 acre parcel in the SESE of Section 25, Township 6 North, Range 25 East. Custer County confirmed that the parcel is owned by Loy Pehrson on May 13, 2021. The post-transfer place of use and point of diversion are owned by the applicants, according to Custer County taxlot data.

Water Right Validity:

The water rights are valid for transfer. They were decreed variously in 2001 and 2002. At the time of transfer submittal, the portions of the rights proposed for transfer were leased to the Water Supply Bank. The Water Supply Bank was notified of the transfer. Forfeiture is not an issue.

Injury to Other Water Rights:

No injury to other water rights will result from this transfer's approval. A simulation of the transfer was performed in ESPAM2.1. The model was run three times: Once each for the two groups of rights, and once for stand-alone right 34-4010. The calculated impacts from the three results were summed. Impacts to modeled reaches of the Snake River were all less than 2 AF/trimester. No mitigation is necessary. The transfer was advertised and no protests were received. The Water Master of Water District 34 was notified of the transfer and did not respond.

Enlargement of Use:

No enlargement of use will result from this transfer's approval.

Water rights 34-2304 and 34-7025 bear a combined acre limit of 416 acres. The place of use for water right 34-2304 is 359 acres. This transfer proposes to move 7.1 acres from the area that is fully overlapped. Therefore, both rights will be reduced by 7.1 acres.

The transferred groundwater rights will be stacked with a suite of 11 Big Lost River (BLR) rights at the post-transfer place of use. These rights, odd numbered from 34-14189 through 34-14209, have priority dates ranging from 4/22/1884 through 5/10/1897. This same suite of 11 rights underlies the entire split portion of 34-4010 at its pre-transfer place of use.

At the pre-transfer place of use, rights 34-12378 and 34-13829 are partially overlapped by BLR rights. Specifically, 15.8 acres are overlapped by a suite of BLR rights. Of those 15.8 acres, 11.9 (from the N1/2 of the NE1/4) were underlain by rights with priority dates of 8/31/1884 (34-28G) and 5/10/1897 (34-191), and 3.9 acres were underlain by rights with priority dates 6/1/1888 (34-131B) and 5/10/1897 (34-132B). The remaining 15.1 acres are stand alone groundwater rights.

At the pre-transfer place of use, the 7.1 acre split portions of 34-2304 and 34-7025 are stand alone groundwater rights. The net result is that 22.2 acres (7.1 acres + 15.1 acres) will be dried up. At the post-transfer place of use, 3.9 transferred acres will be overlapped by more senior rights from the BLR, 11.9 acres will be overlapped by equivalent rights, and the remaining 21.6 acres will be overlapped by the same BLR rights as at their pre-transfer place of use.

Relevant Big Lost River rights were brought into the transfer program as associated rights to update combined limit conditions. Byron and Loy Pehrson filed a second application to rearrange the remaining place of use for Big Lost River rights 34-28G, 34-131B, 34-132B and 34-191. Because the ground water rights being moved in this transfer are being stacked with Big Lost River rights, these four BLR rights do not need to be reduced. The second transfer rearranges the rights to be fully stacked with the remaining portions of ground water rights 34-12378 and 34-13829. The six rights will share a 221.1 acre combined place of use.

All pre-transfer places of use, and the post-transfer place of use, are within the service boundary of the Big Lost River Irrigation District. There was an issue bringing associated water right 34-7056 into the transfer program. Therefore, the conditions were updated outside of the transfer approval.

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.