

MEMORANDUM

Date: December 22, 2020
To: Transfer 84524
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to rearrange the place of use for water right 34-7081. The transfer moves approximately seven acres of the right off of a neighboring property so the right is entirely on property owned by the applicant, 3 Weight LLC.

Authority to File: Applicant, 3 Weight LLC, filed a Notice of Ownership Change at the same time as the transfer application. Ownership change include a deed from the current owner of record, Marz, conveying all of water right 34-7081 to 3 Weight LLC. I conducted a review of the history of water right 34-7081. The original SRBA claimant, Sayer, owned the entire claimed place of use. During the time the claim was pending in the SRBA, Sayer sold off most of the irrigation place of use (all but seven acres) to Marz. Marz filed an ownership change. The Department failed to notice that Sayer still owned some of the acreage under the water right and updated the entire right to be in the name of Marz. Water right 34-7081 was decreed in the name of Marz. Seven acres of the right were still located on the Sayer property, even though Marz did not have any legal access to the Sayer property. Based on recent court decisions, Marz was the decreed owner of the entire right. Marz sold the entire right to 3 Weight LLC. 3 Weight LLC has demonstrated the authority to file.

Water Right Validity: The seven acres to be transferred to property owned by 3 Weight LLC have not been actively irrigated since the SRBA partial decree was issued (in 1997). 3 Weight LLC argues that it and its predecessor in interest have not had legal access to the authorized place of use, a circumstance beyond the control of the water user. The Department does not have clear and convincing evidence of forfeiture.

Injury to Other Water Rights: Ground water point of diversion will not change. No apparent issues. Department published notice of the application and no protests were filed.

Enlargement of Use: Water right 34-7081 will continue to be limited to 65 acres.

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.