

MEMORANDUM

Date: December 5, 2019
To: Transfer 83410
From: Brian Normandeau
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion and place of use for water right 34-14564. Applicants have an agreement to purchase water right 34-14564 from the current owners of the right. Water right will be officially conveyed after the transfer approval and ownership records will be updated at that time.

Authority to File:

The application was signed by Jared and Sonya Harris. They own the proposed place of use according to Custer County records. Application included a copy of a deed for the proposed place of use property. The water right is currently owned by Evan J and Ranae Tripp. A Water Right Buy/Sell Agreement between Harris and Tripp was included with the application.

Water Right Validity:

The water right was decreed 12/14/2001. Review of aerial imagery and NDVI data does not indicate any irrigation of the lands since the right was decreed. The application states the right has undergone a five year period of non-use because portions of the ditch have been filled in, making it impossible for the property owner to access their water. The watermaster of water district 34 confirmed that the lower portion of the Sutter Ditch, which delivers the water to this property, is not capable of delivering this right. He stated that the users higher on the ditch continue to use the ditch, but the water right would not make it to the existing place of use in the current Sutter Ditch, even if the ditch were not filled in. The water right is fairly junior and, according to Water District 34 delivery records, would only be available for a short window in an average water year. The right is not available at all in a drought year. At this point, the Department does not have clear and convincing evidence of forfeiture because the non-use seems to be a result of circumstances beyond the control of the water user (drought, conveyance losses, upstream owners filling in ditch)..

Injury to Other Water Rights:

The right involved in this transfer has a priority date of 03/10/1894, which is fairly junior on the Big Lost River. It would likely only be in priority during good water years, which limits the possibility of the transfer approval causing injury. The watermaster stated that this right has not been delivered at the Sutter Ditch headgate for many years. Therefore, the water right has not been used to offset shared conveyance losses in the ditch. Therefore, no portion of the right needs to be left in the ditch to prevent injury to the other water users on the ditch.

Enlargement of Use:

Approval of this transfer does not result in an increase to diversion rate or irrigated acres. No issues identified.

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.