

MEMORANDUM

Date: August 24, 2018
To: Transfer 80529
From: James Cefalo
Re: Review & Evaluation of Sufficiency of Information

This transfer proposes to change the point of diversion for water right 29-14032. Decreed water right 29-14031 has been split into three rights (29-14031, 29-14032, and 29-14115). When the ownership of the rights were updated, they continued to share a common point of diversion. This transfer proposes to move water right 29-14032 to its own separate point of diversion.

Authority to File: Transfer was filed by Kirk Jackson, the current owner of record for water right 29-14032. According to Bannock County taxlot data, Jackson owns the property at the existing place of use for the right. The proposed point of diversion is located on an adjacent property owned by Dale Koester. Proposed point of diversion and associated pipeline were constructed in 2015 with Koesters knowledge and consent.

Water Right Validity: Water right was decreed in 2004. Neighbor, Chad Barnes, filed civil suit about the validity of water right 29-14032. Idaho Supreme Court confirmed that the water right has not been lost to forfeiture.

Injury to Other Water Rights: Other water users from the same source, Barnes and Bloxham, filed protest against proposed change. Proposed point of diversion is located only 120 feet upstream of the existing (Barnes and Bloxham) point of diversion. If accurate measuring devices are installed on both diversions, as is required by a pending measuring device order issued by the Department for Water District 29H, the watermaster will be able to deliver the proper amount of water to the three users. Therefore, the proposed change will not result in injury to other water rights as long as an acceptable measuring device is installed by Jackson.

Enlargement of Use: No issues identified.

Local Public interest: One of the primary issues of protest is that an obstruction across the channel will cause siltation at the spring. Barnes and Bloxham withdrew their protest on the condition that Jackson install a side channel diversion structure. Evidence in the record supports the concerns of the protestants. Approval should include a condition requiring Jackson to maintain a side-channel diversion structure, thereby avoiding any obstruction of the stream channel.

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.