

MEMORANDUM

Date: October 16, 2024
To: Transfer 89292
From: Jake Nebeker
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the place of use and point of diversion for water right 74-664. The water right owners, Phoebe and Leroy Bird, already made the proposed changes in 1987 after a storm washed away the original diversion system. At that time, the diversion and 77 acres were moved downstream to be adjacent to other land irrigated by the Birds.

Authority to File:

The current water right owners of record are Phoebe and Leroy Bird. The transfer applicant is Phoebe Bird. Lemhi County tax lot data shows Leroy Bird as the owner of the current and proposed place of use. Ancestral Leroy Bird passed away in 2012. The applicant, Phoebe Bird, has authority to make the change.

Water Right Validity:

The right included in this transfer was decreed in the SRBA in 2007. Water Master report records show this right has been delivered to the proposed point of diversion since at least 2010 (when the records are specific enough to verify delivery). Review of 2011, 2017 and 2023 aerial photography shows growing vegetation on the proposed place of use. Therefore, forfeiture does not appear to be an issue.

Injury to Other Water Rights:

Other rights do not appear to be injured by the proposed change. This change took place 37 years ago and has not received opposition. This transfer proposes to move the point of diversion downstream past five water rights which are junior to this right. The water right source, McDevitt Creek, is regulated in conjunction with the Lemhi River. Therefore, the junior rights on McDevitt Creek, including junior rights held by Bird, are already subject to downstream senior water rights. Moving water right 74-664 will have no effect on the junior water rights on McDevitt Creek. The quantity authorized to be diverted will not change as a result of this transfer. The water master was notified and did not provide a comment. The transfer was advertised without protest.

Enlargement of Use:

The proposed change does not appear to result in enlargement because neither rate nor irrigated acreage will increase as a result of the transfer. There are no overlapping rights on the proposed place of use.

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.