

MEMORANDUM

Date: February 22, 2024
To: Transfer 88691
From: Thomas Lafortune
Re: Review & Evaluation of Sufficiency of Information

The purpose of this transfer is to change the nature of use of a portion of irrigation right 23-11493 to diversion to storage and recreation storage. The applicant proposes to retire 2.5 irrigated acres to account for evaporative losses from two lined ponds. The period of use for recreation storage will be year-round. The place of use for irrigation is also being changed as part of the transfer application.

Authority to File: The applicant, Mark & Ellen Brandt Family Trust, is the current water right owner according to Department records. An ownership change was filed in January 2021. The application was signed by Mark Brandt, Trustee. The applicant is authorized to file.

Water Right Validity: Water right 23-11493 was decreed in the Snake River Basin Adjudication in 2010. Aerial imagery shows little or no evidence of irrigation at the place of use since the decree. I requested more information regarding historical use of the right or defenses to forfeiture. The applicant and representatives cited unreliable delivery through neighboring properties as the reason for inconsistent use of the right. They also argued that they had resumed full use of the right in 2023. Aerial imagery shows irrigation occurring in 2023. Right holder provided evidence that the water right has always been diverted through Palisades Canal when it is in priority. The Palisades Canal does not return water to the Snake River, therefore the water has not been made available to a third party on the river to make a claim on the right. The Department does not have clear and convincing evidence of forfeiture at this time. .

Injury to Other Water Rights: No issues identified. The transfer was advertised without protest. Water right 23-11493 is included in and administered by Water District 01. The watermaster was asked for comment and did not oppose approval of the proposed changes.

Enlargement of Use: Evaporation from the 2.5-acre surface area ponds is calculated to be 3.1 afa. Retiring the 2.5-acre footprints of the ponds from irrigation will reduce consumptive water use under the right by 4.6 afa. The applicant stated that the initial fill in the first year will be mitigated with rental pool or Water Supply Bank water. Since water is delivered through an irrigation canal, the ponds will be cut off during the non-irrigation season. Any subsequent fills required in future years will need to be mitigated again. Enlargement is not a concern.

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.