

MEMORANDUM

Date: April 25, 2025
To: Transfer 89453
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This transfer updates the place of use by adding 27.7 total acres—transferred variously from right 33-2055, combined rights 33-2078 and 33-2100, and right 33-14886—to 235 acres under rights 33-2044A, 33-2047, 33-2048B, and 33-2077, creating a 262.7-acre place of use. It also authorizes a third point of diversion for the eight water rights.

Authority to File:

The applicants, Brian and Ilene Harrell, have the authority to file.
At the time of transfer submittal, the applicants were listed as the owners of the water rights in the IDWR database.
Brian Harrell was the owners of the pre-transfer and post-transfer places of use according to Butte County taxlot data. Brian Harrell also owned the land upon which the new point of diversion is located.
The applicants signed the application.

Water Right Validity:

The water rights are valid for transfer.
The 27.7 total acres located under the corners of rights 33-2055 (9.3 acres), 33-2078 and 33-2100 (10.5 acres), and 33-14886 (7.9 acres) had not been irrigated. However, the applicants believed they had transferred these acres to the NWNE of Section 27, Township 6 North, Range 29 East—the post-transfer place of use—over 20 years ago. That area has been consistently irrigated. Under Idaho Code § 42-223(6), this constitutes a valid defense to forfeiture. This transfer also resolves IDWR Enforcement Case Number E2020-1649.

Injury to Other Water Rights:

No other water rights will be injured by the approval of this transfer.
The transfer was advertised, and no protests were received.
The watermaster of Water District 33 was notified of the transfer and did not comment.
The farthest pre-transfer point of diversion (in SWNWNW Section 20, Township 06 North, Range 29 East) is less than 2.60 miles from the farthest post-transfer point of diversion (NENW Section 27, Township 06N, Range 29 East). Because modeling is not required when transferring water between adjacent cells, and the distance across adjacent cells can be up to 2.80 miles, no ETRAN simulation is required.

Enlargement of Use:

No enlargement of use will result from the approval of this transfer.
Rate, volume, nor irrigated acres are authorized to increase.
33-14886 was the right chosen to split from among entirely overlapping rights 33-14882, 33-14884, 33-14886, and 33-14888. The combined rate and volume of the four stacked water rights were transferred from 33-14886 alone and do not constitute an enlargement.
The proposed rate of 5.49 cfs is additive of the transferred rights. The actual transferred rate, 5.23 cfs, reflects combined limits and does not represent an enlargement.

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.