

MEMORANDUM

Date: August 11, 2026
To: Transfer 90129
From: Cooper Fritz
Re: Review & Evaluation of Sufficiency of Information

This application proposes to change the place of use and point of diversion for a 54-acre portion of Big Lost River rights 34-228A, 34-360C, 34-856G, and 34-14835. Although the application was filed in October 2025, it took several months for the applicants and their consultant to assemble the required documents.

Authority to File:

The applicants, Debbie Ellwein and the Melvin J. Ellwein Testamentary QTIP Trust, have the authority to the file. They are the owners of record for the water rights. Debbie Ellwein signed the application for herself and on behalf of the Trust.

The pre-transfer place of use was partly owned by Debbie Ellwein (NESW of Section 20, T06N R26E) and partly owned by the Lost River Valley Mennonite Church, Incorporated (SESW of Section 20), according to Custer County taxlot data. A "Consent to Water Right Transfer" included in the application demonstrates the Lost River Valley's Mennonite Church, Incorporated's, consent to the water right transfer and acknowledges that the church does not have any ownership interest in the water rights. The consent was signed by Jonathan Toews, Deacon of the Church.

Approximately 39 acres of the post-transfer place of use were owned by Joshua Felton, according to Custer County taxlot data, while the remaining 15 acres were owned by Francis Magee & the Magee Family Trust. A Warranty Deed (Instrument No. 26314) included with the application demonstrates that the Francis Magee & the Magee Family Trust sold these 15 acres to Joshua Felton in 2022. A Consent to Water Right Transfer, signed by Joshua Felton, authorizes the 54 acres contemplated in this transfer to be placed on his land.

A Water Right Purchase and Sale Agreement submitted with the application demonstrates that ownership of the 54-acre portion associated with the split water rights will be changed to Joshua Felton following approval of the transfer.

Water Right Validity:

The water rights are valid for transfer. They were decreed in 2002 and have been involved in several temporary changes since that time. Based on the available information, there is no clear and convincing evidence of forfeiture (see Attachment).

Injury to Other Water Rights:

No other water rights will be injured as a result of this transfer. The transfer was advertised and no protests were received. The Watermaster of Water District 34 was notified and did not respond.

Enlargement of Use:

No enlargement of use will result from the approval of this transfer. Neither rate nor irrigated acres are authorized to increase. In the review of this application, I discovered that a previous transfer (89891) was not reflected in the Department's water right database. The transfer program did not overwrite the water right records correctly. In other words, water rights 34-856G, 34-360C, and 34-14835 did not reflect the

place of use changes and conditions of approval updates approved under Transfer 89891 (approved in 2025). The changes approved under Transfer 89891 are incorporated into the approval of this transfer for the remaining portions of water rights 34-856G, 34-360C, and 34-14835, thus updating the water rights database.

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.