


ADJUDICATION MEMORANDUM #5

TO: Adjudication Bureau Staff

FROM: Don Shaff, Adjudication Bureau Chief 

SUBJECT: Transfers

REVISED: December 15, 2008

As of May 26, 1969, any person desiring to make a change in use of a water right was required to make application and receive the approval of the department prior to making the change. (See Sections 42-108 and 42-222, Idaho Code.) However, legislation has been adopted waiving this requirement for changes made prior to November 19, 1987, for the Snake River Basin Adjudication (SRBA) and prior to January 1, 2006, for the Northern Idaho Adjudications (NIA). For the accomplished transfer statute, see Section 42-1425, Idaho Code.

For the SRBA, the claimant should be advised to claim the water right as it was used as of November 19, 1987. For the NIA, the claimant should be advised to claim the water right as it was used as of January 1, 2006. The claimant must describe the changes between when the water use was initiated and when these changes occurred on the notice of claim form. Quite often, these changes are those in point(s) of diversion, place of use (POU), or water use.

A claimant does not have to file a transfer application for a change made as of November 19, 1987, for the SRBA or January 1, 2006, for the NIA.

A transfer application should, however, be filed for any changes in use made after November 19, 1987, or January 1, 2006. If the use of water was changed after November 19, 1987, or January 1, 2006, and a transfer application has not been approved, the water right will not be recommended as changed.