

LB 962 RECOMMENDATIONS FOR REQUIREMENTS FOR CHANGING POINTS OF DIVERSION AND A SHOWING OF NO HARM.

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The following are proposed rules on how to proceed with changes in the points of diversion and changes in the location of use that include changes in the points of diversion.

1. For changing the location of diversion—no matter whether they are changing the location of use of the appropriation, the following shall apply:
 - A. For those instances where the change in location of diversion meets all three of the following conditions, there shall be a rebuttable presumption that no harm will occur: (This applies only to the change in location of diversion—changes in location of use would have to be analyzed separately.)
 - i. Does not move the location above or below another appropriator, and
 - ii. Does not move the location upstream or downstream of a tributary source to the original source, or a constructed river return or a constructed drain, and
 - iii. Does not move the location to a new source.
 - B. If someone wants to apply to move their location of diversion above or below another appropriator's diversion location, or to move their point of diversion to a different supply (examples: from one tributary to another tributary or from a tributary to the mainstem) the Applicant/Petitioner may:
 - i. Obtain the written agreement of all appropriator's lying between the current approved location of diversion and the proposed point of diversion, or
 - ii. Submit to the Department with the application/petition the plan on how the Applicant/Petitioner will assure that such move does not harm other appropriators, or
 - iii. Apply to have the priority date of the appropriation be changed to the date the relocation petition, transfer application, or change application was filed in the Department.