



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 10, 2013

Clerk of the SRBA Court
253 3rd Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Re: 74-39A, 74-15859 & 74-15860

Dear Diana:

The Department has recently been discussing a potential application for transfer for water rights held by Leadore Land Partners LTD Partnership (Leadore) in Basin 74. While reviewing Leadore's water rights, it came to the Department's attention that water right nos. 74-39A, -15859, and -15860 were incorrectly decreed by the SRBA District Court. While these water rights were at issue before the SRBA District Court, two NCAPs were filed. It appears the partial decrees for these water rights were based on the first NCAP, rather than the second NCAP.

Water right nos. 74-39A, -15859, and -15860 were unobjected to in the SRBA; however, because there were Lemhi high flow claims associated with the property, the recommendations were marked as unobjected overlaps, pending resolution of the high flow issue. On January 12, 2009, during the pendency of the high flow issue, the Department filed an NCAP and Amended Director's Report with the SRBA (January 2009 NCAP). The January 2009 NCAP was based on a December 31, 2008 approved transfer (December 2008 transfer). On February 20, 2009, an order was issued by the Department withdrawing the December 2008 transfer upon which the January 2009 NCAP was based.

Leadore subsequently amended its application for transfer. On June 5, 2009, the Department approved the amended transfer application (June 2009 transfer). On September 14, 2009, the Department filed a second NCAP and Amended Director's Report with the SRBA (September 2009 NCAP).

The differences between the January 2009 NCAP and the September 2009 NCAP can be best summarized as follows: In the January 2009 NCAP, water right no. 74-39A was recommended disallowed, as it was split into water right nos. 74-15859 and 74-15860. In the September 2009

NCAP, however, water right 74-39A was recommended as a valid water right without splits; therefore, the September 2009 NCAP did not report recommendations for 74-15859 and 74-15860.

On March 8, 2011, Special Master Dolan issued his Master's Report and Recommendation, consistent with the January 2009 NCAP. On May 3, 2011, partial decrees were issued by the SRBA District Court consistent with the March 8, 2011 Master's Report and Recommendation and January 2009 NCAP.

In reviewing the September 2009 NCAP, the Department has also discovered that not all conditions from the June 2009 transfer were carried forward to the September 2009 NCAP. In order to present the Court with recommendations consistent with the June 2009 transfer, the Department is enclosing recommendations for 74-39A, 74-15859 (disallowed), and 74-15860 (disallowed).

The Department has communicated with Bob Loucks, Leadore's ranch manager. Mr. Loucks believes the partial decrees based on the January 2009 NCAP are in error and should be corrected to reflect the June 2009 transfer.

Also enclosed with this letter is the standard clerical error form.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'C. M. Bromley', with a long, wavy horizontal line extending to the right.

Chris M. Bromley
Deputy Attorney General, IDWR

Encls.

c.c. Bob Loucks