

Henman, Christina

From: Yenter, Cindy
Sent: Tuesday, November 24, 2020 4:49 PM
To: Henman, Christina
Cc: Cefalo, James
Subject: Watermaster Comment, transfer 84508, Whittaker

The two spring sources identified by right no. 74-157 do not appear to be hydraulically connected and should not have been decreed in a single right. For both springs, the named tributary, 'Lee Creek', is not completely correct and water right administration would be improved by clarification of the tributary. The location of the springs should be updated to a 10-acre tract. Water Appropriation Rule 35.0 3.b.ii requires that for an unnamed source, "the system or river to which it is tributary shall be identified. . . Only one source shall be listed on an application unless the application is for a single system which will have more than one source." Further, Rule 35.03.b.iii requires that "The location of springs shall be described to the nearest ten (10) acre tract." *IDAPA 37.03.08.35*. Even though this is not a new application, the Water Appropriation Rules provide minimum standards so that water right records meet statutory requirements and remain consistent, and the intent of the rules should be followed during transfer processing.

I am inclined to agree that, in the absence of development, flows from the "East Spring" in SWNW Sec 32 would run generally to the east/northeast and would sink long before reaching a named tributary. An appropriate tributary designation would be 'SINKS'. The lower end of the spring complex arises on NWSWNW S32. Applicant has developed a collection ditch to intercept numerous individual springs. The ditch may be artificially routed to the west, to commingle with Stroud Creek, or it may be routed to the northeast, as it was on the day of my last visit, where it encounters a dry channel and flows into applicant's diversion ditches from Stroud Creek.

The "West Spring" in NENE Sec 31 is clearly tributary to Stroud Creek. Stroud Creek was originally identified in some SRBA decrees as Left Fork Lee Creek, but appears on USGS quad maps as Stroud Creek, tributary to Lee Creek. As Stroud Creek is the first named stream below the West Spring, it is the appropriate tributary designation. The lower end of this spring complex arises in NENENE S31. A collection ditch has been developed to intercept spring flows. The spring collection ditch flows directly into applicant's ditch. The original Stroud Creek/ Left Fork Lee Creek channel has been manipulated below applicant's Stroud Creek diversion so that all flows of both Stroud Creek and the West Spring flow to applicant's ditches. Applicant has recently modified his ditch system so that flows may be bypassed back to lower Stroud Creek.

WD170 objects to the removal of the tributary designation entirely. Correct tributary designations are essential in proper administration of water rights from common or hydraulically related sources. 74-157 was decreed in both the Lemhi Adjudication and the SRBA as tributary to Lee Creek, and was not decreed as a separately administered right. Right holder cannot now claim exclusive use of the spring waters or leverage administration of the right simply by changing the tributary designation.

WD170 does not oppose approval of this application subject to the following conditions:

- 74-157 must be split so that a single spring system is shown on each right. Applicant can specify the proportion of the decreed flow rate that accompanies each split.
- Each spring must designate an appropriate tributary, as suggested above.
- Each spring must be identified to a 10-acre tract
- Both springs are within WD74Z, Big Eightmile and Lee Creeks. The resulting split rights will remain under the jurisdiction of this water district.
- An acceptable measuring device is required for both spring collection ditches, prior to the confluence of the collection ditch with a tributary stream or with any private ditch.

- An adjustable lockable control device is required on the Stroud Creek bypass from applicant's ditches, so that the WD74Z watermaster may control and regulate bypass of Stroud Creek and West Spring flows.

- Other measuring devices and lockable controls may be required as needed for administration by WD74Z or WD170.

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