

MEMORANDUM

TO: Transfer No. 78428

FROM: Kay Walker *Kay*

RE: Limiting Condition on Rt. 02-2209B

Date: July 1, 2015

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While preparing this transfer for final action, it was noticed that I had left off the condition "E52" that was on Rt. 02-2209B when decreed. This condition stated:

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 90.24 CFS. COMBINED RIGHT NOS.: 2-103, 2-4021, AND ALL PARTS OF BASE RIGHT 2-2209 INCLUDING 2-2209B, 2-2209C, 2-2209E, 2-10187, 2-10189, 2-10191, 2-10196, 2-10208, & 2-10209.

I went through all of the rights listed in the condition and found that only 5 rights and 46.59 cfs are remaining at the point of diversion where the water was being diverted. Most of the rights were split into other rights and the points of diversion were moved to other locations. Since there are no longer 90.24 cfs of water rights being diverted at the point of diversion that this condition was based on, I recommend we remove the condition if approval of Transfer 78428 is issued.

Rt. 02-103 did not have the condition on it and it is part of the condition. Right 02-4021 is also included in the condition and does not have that limitation. Rt. 02-2209C (included in the condition) was disallowed and no longer exists. Rt. 02-2209E does not include the condition. Rt. 02-10187 does not include the condition. Rt. 02-10189 does not include the condition, but does utilize the same p/d and portion of p/u as under this transfer. That right has been placed in the Water Supply Bank indefinitely. Rt. 02-10191 does not include the condition. Rt. 02-10196 does include the condition but is no longer at the point of diversion that the condition was applied to. Rt. 02-10208 did have the condition but was split into Rts. 02-10337 and 02-10338. Rt. 02-10209 was split into 02-10209 and 02-10511. Rt. 02-10337 was split into 02-10433 and 02-10434. Rt. 02-10338 was transferred to another property and no longer has the condition. Rt. 02-10209 was transferred to another property and does have the condition. Rt. 02-10511 does have the condition but is located at a different p/d and p/u. Rt. 02-10433 was split into Rts. 02-10449 and 02-10450. 02-10449 was split into Rts. 02-10471 and 02-10472. Rt. 02-10450 is a right for Idaho Power that has been placed in Water Supply Bank. This right shows the same p/d and p/u as under this transfer. Rt. 02-10471 was transferred to another point of diversion and does not include the condition. Rt. 02-10472 was also moved to another point of diversion and does not include the condition.

The condition no longer has any value since we have not used it consistently in the splitting of the rights.