

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

RECEIVED
SEP 15 2014
DEPT OF WATER RESOURCES
SOUTHERN REGION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for an entire water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right or to report an ownership change for a portion of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change

1. **APPLICANT(S)** ROLF ENGH Phone (612)375-7705
2. **MAILING ADDRESS** 1928 HUMBOLDT AVE S City MINNEAPOLIS
State MN Zip 55403 Email rengh@valspar.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. **LIST WATER RIGHT NUMBER(S)** 71-10883

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.6 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
x		SE	NE	NE	25	07N	14E	Blaine	Pole Creek	
			SE	NW	25	07N	14E	Blaine	Pole Creek	PC6
			SE	NW	23	07N	14E	Blaine	Pole Creek	
			SE	SE	23	07N	14E	Blaine	Pole Creek	
			SW	NW	23	07N	14E	Blaine	Pole Creek	
			NW	NE	22	07N	14E	Blaine	Pole Creek	
			SE	NE	22	07N	14E	Blaine	Pole Creek	
			NE	NW	22	07N	14E	Blaine	Pole Creek	
			NW	NE	22	07N	14E	Blaine	Pole Creek	
			NE	NE	22	07N	14E	Blaine	Pole Creek	

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

The new POD will be installed with a headgate, fish screen, and measuring device. The diversion will be piped to the existing ditch system, which will supply a small flood-irrigated field.

- b. Who owns the property at the point(s) of diversion? USFS

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

The applicant will receive a special use permit for diversion from the USFS for implementing these changes.

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

7. **MAP** - ☒ Attach a map of the diversion, measurement, control and distribution system. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The *Map Tool*, available at maps.idwr.idaho.gov/Transfer/ApplicationLayouts provides a satisfactory template for creating the required map.

8. **SIGNATURE** - The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.



Signature of applicant or authorized agent

Rolf Engh

Print name and title if applicable

9/3/2014

Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. **FEE** - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The *Fee Schedule* is available at www.idwr.idaho.gov/WaterRightTransfers/Step4 and in the *Application for Transfer Instructions*.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by

CH / DM

Date

9-15-2014

Fee paid ~~\$500~~ -

Date

9-15-2014

Received by

DM

Receipt #

5034297

Preliminary review completed by _____

Date _____

Attachment 1

The proposed transfer is intended to authorize a new point of diversion upstream of the current active diversion (PC7). The current diversion structure forms a barrier to fish passage, blocking the movement of ESA-listed Chinook salmon, steelhead, and bull trout, as well as resident westslope cutthroat trout. The new POD structure has been designed to allow fish passage at a range of stream flows. It will be installed with a headgate, measuring device, and fish screen. It will tie into the existing ditch and serve a flood-irrigated field.

The new POD proposed will be the active diversion point as long as there is USFS authorized special use permit. The other PODs are intended as a fall back sources in the advent that the POD on National Forest loses authorization. A condition that recognizes this purpose, and restricts their use accordingly, is welcomed. Perhaps the following: The point of diversion authorized for the SE quarter of the NE quarter of the NE quarter of Section 25, Township 07N, Range 14E shall be the sole active diversion while the owner holds a special use permit from the USFS. Upon cancellation or expiration of the special use permit, the remaining authorized points of diversion may be reactivated.

The applicant believes that this transfer is in the local public interest and will not adversely affect current recovery efforts.

8/11/2014

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROLF ENGH 1928 HUMBOLDT AVE S MINNEAPOLIS, MN 55403 (612)375-7705

Status: Active

Tributary
SALMON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	10/31	0.600 CFS	
	Total Diversion		0.600 CFS	

POLE CREEK	NWNE	Sec. 22, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SENW	Sec. 23, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SENE	Sec. 22, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	NENW	Sec. 22, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	NWNE	Sec. 22, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SENW	Sec. 25, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SWNE	Sec. 25, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SESE	Sec. 23, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	NENE	Sec. 22, Twp 07N, Rge 14E,	BLAINE County
POLE CREEK	SWNW	Sec. 23, Twp 07N, Rge 14E,	BLAINE County

T07N R14E S25	NENE	0.2
T07N R14E S25	NWNE	11.2
T07N R14E S25	SWNE	8.3
T07N R14E S25	SENE	2.5
T07N R14E S25	NENW	11.9
T07N R14E S25	NWNW	0.6
POU Total Acres:		34.7

1.		TWO POINTS OF DIVERSION LOCATED IN T7N, R14E, S22, NWNE.
2.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3.	C13	THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/11/2014

IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 71: WATER RIGHT NO. SOURCE NONE NONE
THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE
NONE ALL WATER RIGHTS WITHIN BASIN 71 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.

4. STOCKWATER FOR 1800 RANGE CATTLE. RIGHTS 71-00060A, 71-00060B, 71-00062A, 71-00062B AND 71-00062D AT TIMES PROVIDE WATER TO SAME CATTLE; WHEN RIGHTS COMBINED THE LIMIT IS 1800 CATTLE.

Comments:

1. scurtis 1/6/2003 Change of Ownership
Rights 71-10882 and 71-10883 are the resulting numbers from a split of right 71-60A by change of ownership.

2. skeen 10/6/2003 PODS
The point of diversion in the SWNENE S25, T7N, R14E is probably the irrigation point of diversion, but there is no basis in the ownership split documents for excluding the other points of diversion from this portion of decreed right 71-60A.

3. nmiller 11/20/2006 POD
Correlated PODID 583277 from SpatialDataID 298255 to SpatialDataID 138699

4. mciscell 5/26/2009 POD
PODID 599106 correlated from SpatialDataID 298244 to SpatialDataID 137646

5. mciscell 5/26/2009 POD
PODID 583280 correlated from SpatialDataID 298244 to SpatialDataID 137646

6. mciscell 5/26/2009 POD
PODID 583277 correlated from SpatialDataID 298255 to SpatialDataID 138699

7. mciscell 5/26/2009 POD
PODID 583278 correlated from SpatialDataID 138010 to SpatialDataID 298245

8. nmiller 11/30/2009 POD
PODID 583280 correlated from SpatialDataID 137646 to SpatialDataID 403408

Combined Use Limits

N/A

SubCase:

N/A

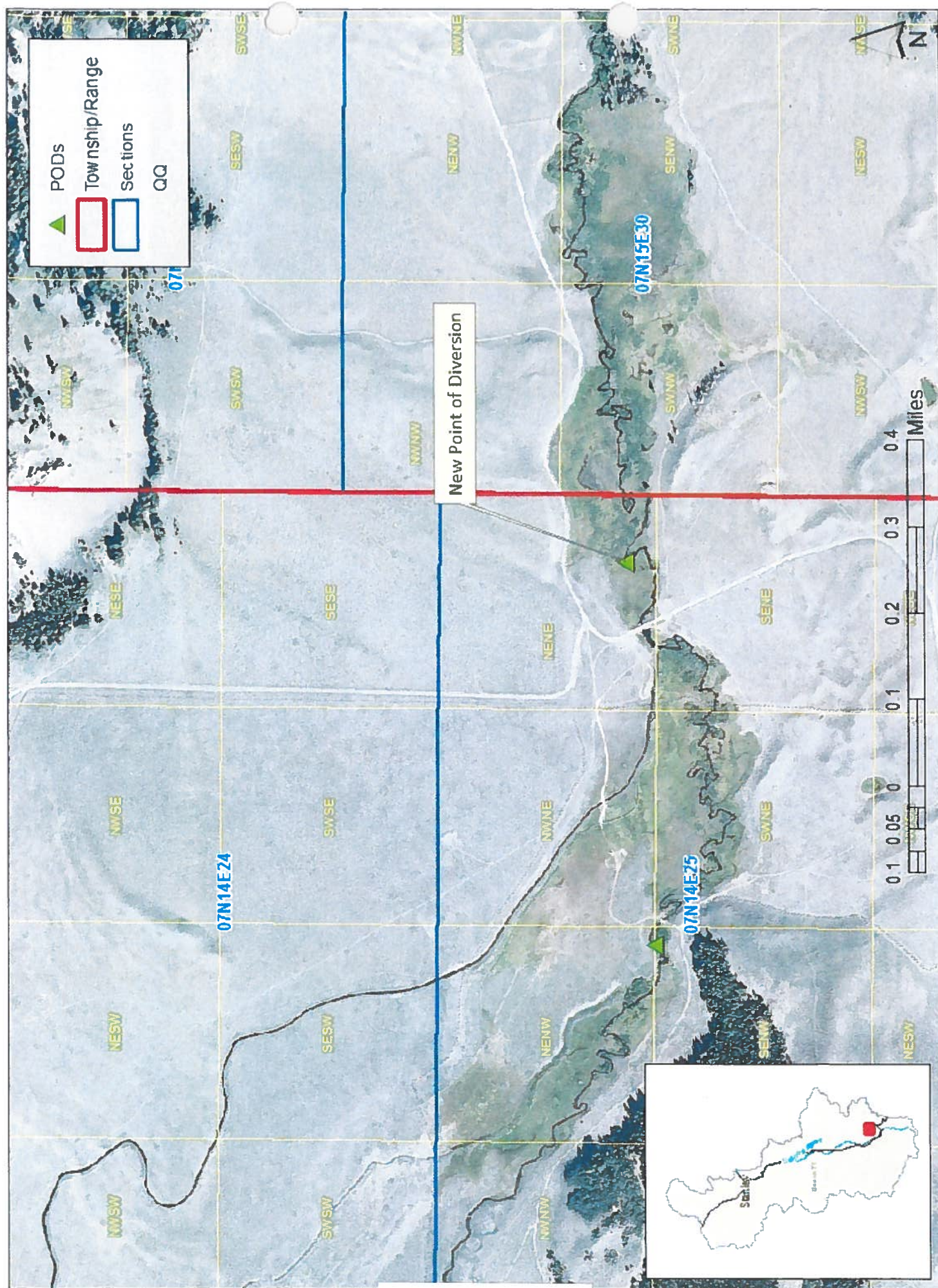
Water Supply Bank:

N/A

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

8/11/2014

71-10883 Point of Diversion Transfer



TRANSFER 79569



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 25, 2014

ROLF ENGH
1928 HUMBOLDT AVE S
MINNEAPOLIS, MN 55403

RE: Transfer No. 79569
Water Right No(s). 71-10883

Dear Applicant(s):

The Department of Water Resources has received your water right transfer application. Please refer to the transfer number referenced above in all future correspondence regarding this transfer.

A legal notice of the application has been prepared and is scheduled for publication in the **IDAHO MOUNTAIN EXPRESS on 10/1/2014 and 10/8/2014**. Protests to this application may be submitted for a period ending ten (10) days after the second publication (**October 20, 2014**).

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the approval document.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline
Administrative Assistant

Maline, Denise

From: Maline, Denise
Sent: Thursday, September 25, 2014 9:25 AM
To: Idaho Mountain Express
Subject: LEGAL NOTICE
Attachments: Idaho Mtn Express Cover Letter.docx; Idaho Mtn Express Ad.doc

Attached please find (1) legal notice being submitted for publication on October 1st & 8th, 2014. Please feel free to contact me if you have any questions, or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise Maline
Administrative Assistant
Idaho Dept of Water Resources, Southern Region
650 Addison Ave W, Ste 500
Twin Falls, ID 83301
(208) 736-3033
denise.maline@idwr.idaho.gov



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 25, 2014

LEGAL NOTICE DEPARTMENT
IDAHO MOUNTAIN EXPRESS
PO BOX 1013
KETCHUM, ID 83340

RE: Transfer No. 79569
Water Right No(s): 71-10883

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before October 20, 2014. Your cooperation is appreciated.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

**NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 79569**

ROLF ENGH, 1928 HUMBOLDT AVE S, MINNEAPOLIS, MN 55403; has filed Application No. 79569 for changes to the following water rights within BLAINE County(s): Right No(s). 71-10883; to see a full description of these rights and the proposed transfer, please visit our website at www.idwr.idaho.gov and search under New Water Right Applications. The purpose of the transfer is to change a portion of the above rights as follows: Transfer 79569 proposes adding a new point of diversion (POD) on Pole Creek for water right 71-10883 that currently allows for the diversion of up to 0.6 cfs for the irrigation of 34.7 acres on existing pasture land located approximately 7.7 to 8.4 miles east and 21.0 to 21.3 miles south of the intersection of state highways 21 and 75 in Stanley. The new POD is located approximately 8.5 miles east and 21.5 miles of the intersection of state highways 21 and 75 in Stanley and will be the only active diversion. The 10 existing PODs will be retained as backup in case the USFS no longer authorizes the special use permit for the new POD.

For additional information concerning the property location, contact Southern Region office at (208) 736-3033. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222. Any protest against the proposed change must be filed with the Department of Water Resources, Southern Region, 650 Addison Ave W Ste 500, Twin Falls ID 83301 together with a protest fee of \$25.00 for each application on or before October 20, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published on October 1st & 8th, 2014

Maline, Denise

From: Maline, Denise
Sent: Thursday, September 25, 2014 9:51 AM
To: Miller, Nick
Subject: Comment Letter for transfer 79569 (Engh)
Attachments: Comment Letter to WM170.pdf; Transfer 79569.pdf

Hi Nick,

Attached is a cover letter & copy of an application for transfer in your district. Please review the attached and provide any necessary comments. If you have any questions, please feel free to contact myself, or Jana Reeder, as she is the agent processing this transfer.

Thank you in advance,

Denise @ Southern



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 25, 2014

NICK MILLER
WATER DISTRICT #170
322 E FRONT ST
BOISE, ID 83720

Via e-mail

RE: Transfer No. 79569
Water Right No(s): 71-10883

Dear Mr. Miller:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an untested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 25, 2014

JAN SKRUKRUD
WATER DISTRICT #71
PO BOX 203
STANLEY, ID 83278

RE: Transfer No. 79569
Water Right No(s): 71-10883

Dear Ms. Skrukrud:

A copy of the above referenced application is enclosed. Please review the application, then complete the enclosed recommendation form as necessary, and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR's regional offices can finish reviewing an unprotested application as soon as the protest period has past. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

Denise Maline
Administrative Assistant

Enclosure(s)

MEMORANDUM

Date: September 22, 2014
To: Transfer 79569 File
From: Jana Reeder
Re: Evaluation of Sufficiency of Information Submitted

Transfer 79569 proposes adding a new point of diversion (POD) on Pole Creek for water right 71-10883 that currently allows for the diversion of up to 0.6 cfs for the irrigation of 34.7 acres on existing pasture land located approximately 7.7-8.4 miles east and 21.0-21.3 miles south of the intersection of state highways 21 and 75 in Stanley. The new POD is located approximately 8.5 miles east and 21.5 miles of the intersection of state highways 21 and 75 in Stanley and will be the only active diversion. The 10 existing PODs will be retained as backup in case the USFS no longer authorizes the special use permit for the new POD. Transfer also proposes shifting acres to better reflect the current irrigation practice.

The properties and points of diversions involved with the transfer are located outside of the ESPA but within Water District 170 so watermaster comments will be requested.

- **Authority to File:**
The Department's database indicates that water right 71-10883 is owned by the applicant, Rolf Engh.
- **Water Right Validity:**
Right 71-10883 was partially decreed in the SRBA in March of 1999. Based on aerial photography, it appears that forfeiture is not an issue.
- **Injury to Other Water Rights:**
None anticipated or foreseen. The proposed POD is located approximately 600 feet upstream and will more easily facilitate the passage of native fish.
- **Enlargement of Use:**
No changes are proposed for the place of use.
- **Local Public Interest:**
Application will be subject to public notice and protest.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

Rolf and Nancy Engh

1928 Humboldt Ave. S.
Minneapolis, Minnesota 55403
Phone: 612.851.7705

September 3, 2014

RECEIVED
SEP 15 2014
DEPT OF WATER RESOURCES
SOUTHERN REGION

VIA CERTIFIED U.S. MAIL (Article Number 7011 3500 0001 0264 7937)

State of Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Water Right Number 71-10883

Dear Sir or Madam:

Please find enclosed the following documentation relating to the application to change a point of diversion for the above-referenced Water Right:

- Application to change a point of diversion
- Attachment 1 to Application
- Proof Report
- Map showing Point of Diversion Transfer
- Application Fee of \$500 (check no. 4079)

If you have any questions or need anything further, please feel free to contact me.

Sincerely,



Rolf Engh

Bitzenburg, James

From: Moulton, Mark -FS [mmoulton@fs.fed.us]
Sent: Tuesday, August 26, 2014 3:24 PM
To: Bitzenburg, James
Cc: Timm, Joby -FS; Mike Henslee; Case, Morgan; Karma Bragg
Subject: USFS lands at Pole Cr

Mr. Bitzenburg,

I understand your office desires a statement of intent from the US Forest Service regarding irrigation facilities and uses on National Forest System (NFS) lands, associated with adjacent private lands, near Pole Creek. As you may be aware, in order to minimize effects to fish protected under the Endangered Species Act and their designated critical habitat, the Salmon Falls Land and Livestock Co. has been collaborating with a number of interested State, Federal, and Tribal agencies on comprehensive changes to their irrigation facilities and operation on both NFS and private lands. The Sawtooth National Forest is a party in these collaborations and supports these efforts. The changes are intended to address the core limiting stream and riparian habitat conditions within the Pole Creek drainage, building substantially on the earlier efforts. Since some of their facilities and uses occur on NFS lands, the Sawtooth National Forest received and accepted an *application for special use permit* for these lands in 2013 from the Salmon Falls Land and Livestock Co. We have since analyzed the possible effects associated with these uses and have prepared a draft decision that intends to issue the permit. That is, though the decision is not yet final, it is our stated intention to authorize these private irrigation facilities on NFS lands. By extension then, we are also supportive of the revised and new water rights you are considering related to these progressive changes. The Proposed Action contained within our environmental assessment (EA) provides a comprehensive description of the facilities, uses, and the affected NFS lands. The EA and draft decision can be found on the [Sawtooth National Forest project planning website](#).

But also please note that an objection to our draft decision has been received, and, per our planning regulations, we are currently seeking resolution with the objector while also reviewing our analysis relative to the objection. Regardless of the outcome, this step of our planning process will conclude in by late September. Should we finalize and proceed with the decision at that time, the permit would be prepared and issued.

Please contact myself or Area Ranger Joby Timm if you have further questions. - Mark

Mark Moulton
Project Leader
Sawtooth National Recreation Area
5 North Fork Canyon Road
Ketchum, ID 83340
e-mail mmoulton@fs.fed.us
ph. 208.727.5000

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Decision Notice & Finding of No Significant Impact

RECEIVED
SEP 17 2014
DEPT OF WATER RESOURCES
SOUTHERN REGION

Pole Creek Diversion Authorization

**USDA Forest Service
Sawtooth National Recreation Area - Sawtooth National Forest
Blaine & Custer Counties, Idaho
T 7 N, R 14 E, Sections 14, 15, 23, 24, 25, B.M**

Decision and Rationale

Background

An application for a special use authorization (SUA) for the occupancy and use of National Forest System (NFS) lands was received by the Sawtooth National Forest. The applicant requested re-issuance of an existing permit for operation and maintenance of a water diversion structure and associated ditches on NFS lands in the Pole Creek drainage. Current operation of this diversion diminishes the quantity and quality of available stream habitats within Pole Creek by reducing downstream flows, and the condition of the diversion structure itself has deteriorated and is in need of repair or replacement. In order to minimize effects to water dependent resources, the Salmon Falls Land and Livestock Co. is collaborating with a number of interested State, Federal, and Tribal agencies on comprehensive changes to the facilities and their operation on both NFS and private lands. The Sawtooth National Forest is a party in these collaborations and supports these efforts.

Historically, water withdrawal from multiple diversions from Pole Creek resulted in lengthy segments of stream that were completely dry during the irrigation season. At their initiative, and with the support of the Forest Service, the Salmon Falls Land and Livestock Co. consolidated these diversions to a single point in 1982, and converted to a modern and efficient irrigation system that required diversion of less than half as much water. As a result, Pole Creek has since sustained some flow throughout its lower reaches in all but the most severe drought seasons. Nevertheless, these minimal summer flows have generally been insufficient in quantity or quality for resident and anadromous salmonids. Since these initial changes in 1982, Chinook salmon, steelhead, and bull trout have been listed as threatened under the Endangered Species Act. Pole Creek was likely historically important for these three species and has been designated as "critical habitat" for all three. The requirement to seek reauthorization of the existing facilities on NFS land provided the opportunity to explore means to operate the diversion in a way that reduces impacts and to meet the habitat needs of these imperiled fishes.

The resulting collaborations among the land owners; Forest Service; and several other State, Federal, and Tribal partners expanded these efforts and identified a comprehensive list of known

limiting habitat conditions, as well as the objectives necessary to address them. Concepts for the physical and/or operational changes necessary to achieve these objectives, on both public and private lands, were then explored, including the means to increase summer stream flows downstream of the diversion facility. Planning and design for these concepts has been ongoing. The changes are intended to address the limiting stream and riparian habitat conditions within the Pole Creek drainage, building substantially on the earlier efforts.

The potential effects of the operation and maintenance of those irrigation facilities and uses that would be authorized to remain on NFS lands were specifically considered within the *Pole Creek Diversions Authorization* Environmental Assessment (EA). The analysis considered the effects of the individual elements that would occur on NFS lands, as well as in combination with the connected irrigation related objectives and changes that would occur on private lands. The cumulative effects of these changes to the irrigation systems were then also considered with those of the similar recent and anticipated changes within the area – many of which have been conceived within the same collaborations. The analysis also considered a number of other possible alternatives to that which was proposed.

Decision

Based on the analysis within the *Pole Creek Diversion Authorization* Environmental Assessment, it is my decision to implement Alternative 2, the proposed action. Alternative 2 will authorize the use of NFS land for operation and maintenance of water facilities, under such terms and conditions as will contribute towards attainment of Forest Plan goals and objectives for streams, fish, and riparian areas. As such, the authorization will be consistent with the Forest Plan Management Prescription Category 3.2, as well as with the goals and objectives, including the Aquatics Conservation Strategy and the Watershed Aquatics Restoration Strategy priority emphasis. The authorization will also be consistent with the affirmative obligations of federal agencies to promote the recovery of species listed for protection under the Endangered Species Act (ESA). Under the proposed action, a water diversion structure and ditch from Pole Creek on NFS lands (NW¼, Sec 25, T7N, R14E, B.M.) will be authorized, as will related facilities and uses occurring elsewhere on NFS lands. A detailed description of the proposed action is provided in Chapter 2 of the EA.

Other Alternatives Considered

The EA analyzed in detail Alternative 1 (No Action) where irrigation facilities and uses on the NFS lands would not be authorized, and the existing facilities removed. A comparison of these alternatives can be found in Chapter 2 of the EA. Seven other alternatives were considered but dismissed from detailed analysis, having been found not to meet Purpose & Need; or redundant with elements of the proposed action; or beyond the authorities of the National Forest. These alternatives and their rationale for dismissal can also be found in Chapter 2 of the EA.

The most significant issue driving the range of alternatives explored in detail is the concern about the effects from dewatering Pole Creek by facilities on NFS land. The alternatives examined in detail focused on reducing these effects to acceptable levels.

Rationale for the Decision

In making my decision, I relied upon an interdisciplinary team to analyze the Proposed Action and alternatives as documented in the EA. My decision is based on a review of the project record in its entirety, which includes a thorough analysis of relevant scientific information, and our past experience with similar objectives. Careful examination of applicable laws, regulations, policy, and the Sawtooth Forest Plan have all informed my decision. I have also considered the comments submitted regarding the proposal. Selection of Alternative 2 is based on responsiveness to the issues and the Purpose and Need. I believe Alternative 2 meets the purpose and need for action, is responsive to the key issues, and facilitates a responsible expenditure of public funds.

1. The Decision addresses the Purpose and Need for Action.

The purpose of the proposed Pole Creek Diversion Authorization is to authorize occupancy and use of NFS lands for an irrigation system originating from Pole Creek in a manner that complies with law, regulation, and Forest Plan direction. My decision will provide continued access to this important public resource while adequately protecting water dependent resources. My decision to implement the Proposed Action provides the key element upon which the connected objectives on private land can proceed with assurance. Together the Proposed Action on NFS lands, the connected irrigation actions on private lands, and the similar actions occurring on both, will fundamentally address the key limiting stream and streamside conditions within the Pole Creek drainage, building substantially on the earlier efforts. As such, these efforts would address both general and specific goals and objectives outlined in the Sawtooth National Forest Land and Resource Management Plan, as amended (Forest Plan, 2012), and help move the Management Area toward the desired conditions described within the Plan.

While my decision directly pertains only to those private irrigation facilities and uses that will be authorized on NFS lands, its influence will extend many miles upstream and downstream from the authorized diversion (POD). My decision will facilitate a restored hydrologic cycle within Pole Creek, with near natural peak and base flows. Most notably, during the late summer irrigation period, the current situation will be reversed from ~75% of flows being removed from Pole Creek, to ~75% remaining within. These considerable flows will extend down the length of Pole Creek (~4.5 miles) through the private lands, and add substantially to another 8 miles of the headwater of the Salmon River, building on the many previous investments and efforts towards the same objectives. These flows, when combined with the other ongoing or anticipated objectives on both public and private lands within Pole Creek, will also provide access to an additional ~7 miles of critical habitat upstream of the POD.

These combined actions will address the core limiting factors within Pole Creek of: connectivity, as influenced by physical and flow impediments; habitat quality, as reflected in riparian and stream bank conditions, and; fish spawning and incubation security. While some improvement would have been possible without approval of the Proposed Action elements (assuming the parties would have remained willing), our analysis made clear that the core dysfunctional conditions within Pole Creek would likely

have persisted or become worse if irrigation related uses and infrastructure were simply excluded from NFS lands and moved and compressed onto the private lands.

With the Decision, some temporary and localized effects to habitats are likely to occur as associated with the construction of new POD and removal of the former POD on NFS lands. However, the proven practices prescribed with the action are expected to keep any temporary effects within acceptable levels and promote quick recovery.

The needs of imperiled native salmonids protected under ESA framed the initial dialogues and the eventual comprehensive objectives. To realize the streamflow goals and benefits, the conceived and intended strategy will rely on water gained by a conversion from hydropower to commercial power, and with the integration of some new groundwater into the system when natural streamflows within Pole Creek are insufficient to supply both irrigation demands and instream objectives. The changes require new infrastructure, as do all the related objectives, such as replacing barrier culverts and constructing riparian fences. Most are also integrated with the whole, such that they must be implemented in concurrent fashion. In total, the anticipated changes are expensive.

Yet agencies, Tribes, and conservation organizations find value and incentive to see actions implemented that promote the recovery of ESA protected fish (Table 1). Many of these groups had already been engaged in projects previously at Pole Creek, and quickly expressed interest in these deliberations. These groups each operate within their own organizational cultures, policies, priorities, and funding streams. With the strategy defined that would comprehensively address the limiting factors for a key headwater drainage, each evaluated the various elements against their group's priorities, authorities, and expertise. If the principles of any particular group identified an "opportunity" consistent with their own goals, they typically stepped forward to carry an objective forward. Currently all the core elements of the comprehensive strategy have partners assigned with funding secured or anticipated for implementation. I believe this collective participation towards a comprehensive solution is key to such outcomes, and will remain so in the foreseeable future. For our part we have facilitated the partnerships, conducted this core analysis, and pursued our own independent elements of the strategy (i.e. replacing barrier culverts on NFS lands and revising road and trail systems).

Nevertheless, comments received from one conservation organization questioned the cost associated with implementation of the comprehensive strategy. Their comments suggested, in essence, that it may be more cost effective to buy the Ranch, and discontinue irrigation, than to implement the comprehensive strategy. While this option, and the associated values were considered by some organizations that make such acquisitions (e.g. The Nature Conservancy, Western Rivers Conservancy, Rocky Mountain Elk Foundation, Western Watersheds Project), none pursued such negotiations beyond initial research and conversations with the landowner. The most deliberate review concluded the costs associated with a potential acquisition were well beyond their resources (and much greater than those associated with the comprehensive strategy), even if the owners were willing to sell.

Table 1: Project implementation cost estimates (includes primary inter-related or connected objectives associated with the private lands to address Pole Creek limiting factors)

Objective	Lead	Estimated Cost
Installation of 3-phase power	Custer Soil & Water Conservation District	\$320,000
Drill and activate wells	Custer Soil & Water Conservation District	\$270,000
Relocate point of diversion and screen ¹	Idaho Department of Fish and Game – Fish Screen Program	\$120,000
Replace and reconfigure core pivots	Custer Soil & Water Conservation District / Natural Resource Conservation Service	\$980,000
Install small pivots	Salmon Falls Land and Livestock	\$160,000
Operational power costs	Idaho Water Resource Board	TBD
Ditch efficiencies ²	Salmon Falls Land and Livestock	\$63,000
Replace ranch culvert	Shoshone-Bannock Tribes	\$87,000
Construct permanent riparian fences	Shoshone-Bannock Tribes	\$40,000
Provide off-stream livestock water	Natural Resource Conservation Service	\$15,000
Replace and reconfigure pasture fencing	Salmon Falls Land and Livestock	\$80,000
Treatments with land conversions	Salmon Falls Land and Livestock	\$17,500

Similarly, a conservation organization also suggested that no collaboration between the landowner and partners was necessary because the Forest Service has the authority to simply determine and require “bypass flows” in the land use authorization. But I found no compelling reason to pursue such an adversarial approach.

The Forest Service decisions concern authorization of the use of NFS land, and the terms and conditions under which such use should be authorized. Where the use of NFS land will be restricted in a way that limits the permit holder’s operations, as in this case, it is reasonable to explore the options available to the permit applicant to offset those effects, both in order to evaluate the cumulative effects that may occur, and to provide a complete understanding of the impacts to the applicant. I have decided to authorize private irrigation facilities and uses on NFS lands for a private landowner who has offered to construct and operate the facilities (including “bypass flows”) in such a way that all water dependent resources on National Forest will be protected. To do so, the land owner is working with a number of willing partners who are assisting to build the system that will make these substantial benefits possible. The Sawtooth Forest Plan (Objective 0243) directs us to work cooperatively with landowners to resolve instream flow and habitat quality conflicts on private lands. This proposal is the very model of cooperation to achieve shared resource goals. Our analysis has strengthened my expectation and confidence in these outcomes. Failure to act would neglect the stewardship responsibilities and objectives prescribed within the Forest Plan, and maintain the chronic effects recognized in the purpose and need for the action. The Proposed Action, with the connected and similar objectives, will substantially contribute to previous restorative actions within the headwaters of the Salmon River, and fundamentally advance the core emphasis of the Forest Plan within the management area.

¹ resides on NFS lands

² as necessary

2. Decision is Responsive to Key Issues

Through review of the feedback received regarding the proposal, key issues considered central to the analysis were identified. Below is a summary of the issues followed by a brief explanation of how I've used this information in my decision-making.

Issue 1: Fish, Water, and Aquatic Habitat

Operational flow objectives, as described in the Decision, for Pole Creek could affect aquatic habitat and fish, including the quantity and quality of downstream habitats, and the accessibility of upstream habitats.

For Chinook salmon, suitable habitat within 8 miles of the Salmon River will be further improved over existing conditions. The potential for occupancy and use by Pole Creek by native salmonids will be fundamentally improved. All of lower Pole Creek (4.5 miles) will also be made available and suitable for use by all native fish species and life stages, including by spawning adult salmon. Roughly 7 miles of designated critical habitat within upper Pole Creek will also be made accessible for use.

Water temperature in lower Pole Creek will be substantially improved from the existing marginal condition. With typically 3 times the flow passing the POD as currently occurring during the heat of summer, water temperatures will be expected to approximate natural conditions.

Issue 2: Scenery Resources

The Decision includes authorizing pressurized overhead pivot irrigation systems to cross and incorporate small areas of isolated NFS lands located within the private lands. These systems may affect the assigned Visual Quality Objectives (VQO) classification for the area. Overhead pivots can be very visible from Scenic Byway State Highway 75, depending upon their configuration.

This project, while a special use application, is focused on improvement of core limiting factors within Pole Creek including habitat connectivity; habitat quality, and; fish spawning and incubation security. The benefits of this project, no matter how important cannot substantially impair the scenery resources. We cannot trade off one key value of the Sawtooth NRA in order to improve another. Both values must be maintained. As stated in Public Law 92-400, we are required to administer the Recreation Area in such a manner as to best provide:

“...the conservation and development of scenic, natural, historic, pastoral, wildlife, and other values, contributing to and available for public recreation and enjoyment, including the preservation of sites associated with and typifying the economic and social history of the American West...”

With this project, the scenery qualities are maintained. Mitigation has been incorporated into the Decision specifically to protect the scenic qualities. The Forest Plan direction for scenery resources would continue to be met under either the No Action or the Proposed Action.

3. Decision is Superior to No Action

The premise of the No Action Alternative was straight forward – facilities and uses on National NFS lands associated with the irrigation system would no longer be authorized and removed. While NFS lands would have been free of the use, the actual outcome of this action was equally apparent – the relocation and compression of all irrigation facilities and uses onto the adjacent private lands. Therefore our analysis of the No Action Alternative also required the use of informed assumptions to frame the likely connected actions that could occur on private lands. Two core assumptions were considered: that the full existing water rights would continue to be utilized and maintained, and; that approximately 1,000 acres would continue to be irrigated.

The potential temporary effects associated with the anticipated relocation of the irrigation facilities would have been expected to be roughly similar in scope and duration to those anticipated with the Proposed Action. Beneficial outcomes associated with the similar actions of the partners (e.g. culvert replacement) may still have also resulted, assuming the parties remained willing. However, it was the stark contrast in the potential chronic effects associated with the ongoing use and operation of the irrigation facilities under the No Action Alternative that made my decision clear.

Our analysis demonstrated that the core dysfunctional conditions within Pole Creek would likely have persisted or become even worse if irrigation related uses and infrastructure were simply excluded from NFS lands and moved and compressed onto the private lands. Connectivity to upstream habitats would have remained compromised annually during much of irrigation season. Similarly, segments downstream of the diversion(s), with substantially reduced flows, would not have provided suitable spawning or rearing habitat for salmonids in terms of both water quality and quantity. Instream and streamside habitat conditions would also have generally declined as a result of the anticipated flow regimes. The continued passage of pivot towers through Pole Creek would also have chronically damaged habitats and compromised fish spawning and incubation security.

Our analysis estimated that under the No Action Alternative, less than 18 cfs would have passed the POD during roughly 75% of all irrigation days, and that dry channel conditions would have occurred during 18% of all irrigation days. For Chinook salmon, suitable habitat within 8 miles of the Salmon River would have been diminished from existing conditions; 4.5 miles of lower Pole Creek would remain unsuitable and unavailable, and; 7 miles of upper Pole Creek would remain inaccessible. As such, the No Action would not have contributed towards attainment of Forest Plan goals, objectives, or desired conditions, and would have failed to promote the recovery of species protected under the Endangered Species Act.

A conservation organization questioned the core assumptions within our analysis of the No Action Alternative, asserting that the independent responsibilities of the landowner to comply with ESA prohibitions would prevent the outcomes assumed. That is, the legal requirements of ESA alone would prevent the irrigator from harming ESA fish species or their habitat should they be required to leave NFS lands and establish their irrigation

facilities on private lands. Our analysis projected that current adverse effects would continue as a result of the applicant relocating facilities to private land exclusively, where it would be forced to operate in manner that would not realize the benefits to fish habitat projected under the selected alternative. That is, the irrigator currently annually removes the majority of Pole Creek water during the irrigation season from designated critical habitat via the legitimate use of existing state administered irrigation water rights, and that these policies, rights, and conditions would continue under the No Action Alternative.

While private parties are prohibited from unpermitted “take” of listed species by the ESA, it is not at all clear that this proscription would preclude the applicant from operating its water diversion facilities on private land in a manner that has effects similar to the current effects, or in any event greater than the effects of the proposed action. The current effects have been occurring for years, since the fish species at issue was listed, and there would be no reason to predict these effects would be curtailed if the facilities were moved to private land.

In locations within the Sawtooth NRA where ESA regulatory authorities have been exercised on water withdrawal (e.g. Champion Creek 2001), the bare minimum to prevent direct fish mortality was considered acceptable. To our knowledge, the ESA has not been used to impose flow requirements approaching those that will result from authorization under alternative 2. Thus, regardless whether it is assumed that the No Action Alternative would yield a dry channel or one very nearly so, the outcome would continue to undermine National Forest resources and ESA fish recovery as described within the EA. There is no basis to assume equal or greater resource benefits would be realized under the No Action alternative.

Public Involvement

The proposed action has been continually listed in the quarterly Sawtooth National Forest Schedule of Proposed Actions (SOPA) since April, 2013. The SOPA provides the public a list of proposals that are undergoing environmental analysis. The SOPA is posted on the world wide web at <http://www.fs.fed.us/sopa/forest-level.php?110414>.

In March, 2013, information letters were mailed to individuals, organizations, agencies, and area landowners and permittees, describing the action under consideration, and requesting comments. Feedback from staff and the public (13 individuals or organizations) was received and is included in the project record. Specific dialogs with groups or individuals occurred through the summer of 2013 as opportunities occurred. The feedback received from all these efforts was reviewed and considered by the interdisciplinary team and the deciding officer. As a result, the proposed action was further refined and clarified, alternatives to the proposed action were considered, and issues for the analysis were identified.

The feedback we received to this initial concept helped us further refine and clarify the Proposed Action, develop key Issues, and also identified several alternatives to the proposed action. In August, 2013, the *Pole Creek Special Use Permit Review Environmental Assessment* (Review

EA) was made available to the public for a 30-day comment period. The Review EA was an abbreviated version of this full EA, containing Chapters 1 and 2. The purpose of the Review EA was to provide a detailed description of the Proposed Action, alternatives to the proposed action, and identified issues for analysis to the public for the 30-day opportunity to comment. However, no additional comments were received during this comment period.

Finding of No Significant Impact (FONSI)

I have reviewed the environmental effects described in the EA and evaluated whether the Decision constitutes a significant effect on the quality of the human environment or whether the environmental impacts will be significant based on their context and intensity as defined by the National Environmental Policy Act (NEPA), using the criteria in the implementing regulations (40 CFR 1508.27).

I have determined that the implementation of the Decision will not result in any anticipated effects that exceed the level at which a significant effect on the human, biological, or physical environment, in terms of context or intensity, will occur. The effects are not highly uncertain and do not involve unique and unknown risks. The action will not, in relation with other actions, cause cumulatively significant impacts. This determination is based on the environmental assessment process completed for this project and was made considering the following factors:

Context

The setting of this project is in the Pole Creek area with implications for only that immediate area. Project implementation will affect the immediate area surrounding the permitted point of diversion on Pole Creek over a one-to-two year period. The public utilizing these areas will be affected temporarily during the brief periods of project construction. The short-or-long-term effects from this project are restricted to a local area and have no widespread importance.

Intensity

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of this EA and the references in the project record. The effects of this project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised by the public. The agency has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My finding of no significant impact is based on the context of the project and intensity of effects using the ten factors identified in 40 CFR 1508.27(b).

1. Beneficial and Adverse Impacts

The EA demonstrates the beneficial effects of the project have not overshadowed our hard look for potential significant adverse effects. Although there are short-term negative impacts from the implementation of the project, they do not cross the threshold for significance. For example, additional sediment would be expected with the reconstruction of the POD and installation of electrical and water utilities. The substantial separation and gentle topography associated with these disturbances and the design and prescribed practices intended will minimize these effects and risks, and promptly revegetate disturbed areas. Local monitoring of similar treatments has shown that vegetated resiliency typically returns within 3 to 5 years.

The intensity of effects taken in the context of the project will not have a significant impact on the quality of the human environment. I have considered the mitigation measures as part of this finding and they are found in Chapter Two – Proposed Action description as well as in Chapter 3 – Effects analysis.

2. Public Health and Safety

This action will not significantly affect public health and safety. The project activities will comply with all state and federal regulations protecting public health and safety.

3. Unique Characteristics of the Area

My decision will not create significant effects on unique characteristics of the Sawtooth National Recreation Area such as historic or cultural resources, parklands, prime farmlands, wetlands, floodplains, wild and scenic rivers, wilderness areas or ecologically critical areas. No loss of significant scientific, cultural, or historical resources is foreseen.

The action is not located within the Sawtooth Wilderness nor within Roadless Areas, thus there are no effects to those areas. The eligibility of the Salmon River for consideration as a Wild & Scenic River will also not be impacted. A single segment is defined within the Forest Plan from Headwaters to Sawtooth Forest boundary. The outstanding remarkable values to be protected include: scenic, recreation, geologic, hydrologic, fish, and heritage. These values will be fully protected with the action. Direct effects to area wetlands and floodplains from implementation of the Decision were also determined to be limited in both extent and duration.

4. Controversy

All comments were considered in refinement of the project, and are documented in the project record. The comments and environmental analysis did not identify any substantiated scientific controversy over the effects as described.

5. Uncertainty

The action described in my decision will not involve effects that are highly uncertain or involve unique or unknown risks (40 CFR 1580.27). Pertinent scientific literature has been reviewed and incorporated into the analysis process. The technical analyses conducted for the determination of impacts to the resources are supportable with use of accepted techniques, reliable data and professional judgment. Issues of public concern and possible environmental effects of the selected alternative have been adequately addressed in the analysis of this decision. Therefore, I conclude that there are no highly uncertain, unique or unknown risks.

6. Precedent

I find the implementation of the selected alternative does not establish a precedent for future actions with significant effects. These actions do not represent a decision in principle about a future consideration. Any future proposals to the designated routes on the Sawtooth Forest will be evaluated through the National Environmental Policy Act process, consistent with current laws and regulations.

7. Cumulative Impacts

The Decision was evaluated in the context of other past, present, and reasonably foreseeable actions. When considering other activities within the area affected, the cumulative effects of implementing the selected alternative are anticipated to be minor. This action does not result in cumulatively significant effects.

8. Properties On or Eligible for the National Register of Historic Places

A review of the project area was conducted by the Forest Archeologist and he concluded the Decision will have no adverse effect on districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic places.

9. Endangered or Threatened Species or Their Critical Habitat

The Endangered Species Act requires that federal activities not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. The potential effects of the Decision on species currently protected under ESA, or their designated critical habitat, have been considered separately within biological assessments within the project record. The analyses concluded the action will have *no effect* on ESA listed plant species: Ute ladies'-tresses orchid, whitebark pine, Canada lynx, wolverine, or yellow-billed cuckoo. The action will also have *no effect* to Snake River sockeye salmon, but *may affect, but is not likely to adversely affect*, their designated critical habitat. The action *may affect, and is likely to adversely affect* Snake River Chinook salmon, steelhead, and Columbia River bull trout individuals, and their designated critical habitat.

These *may affect* conclusions are primarily associated with temporary risks (short-term) to individuals and impacts to habitat associated with the relocation of the POD facilities, as well as ongoing influences from water withdrawal. Overall the analysis concludes that the federal action, with the connected and similar actions, would address nearly all the principle limiting factors for fish within Pole Creek. Based on this analysis, formal consultation with NOAA Fisheries and the USFWS was conducted for the action.

10. Legal Requirements for Environmental Protection

The action will not violate Federal, or applicable State and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA. The action is consistent with the Sawtooth National Forest Land and Resource Management Plan.

Findings Required by Other Laws and Regulations

2012 amended Sawtooth National Forest Land Management Plan

This decision is consistent with the 2012 amended Sawtooth National Forest Land Management Plan. The project was designed in conformance with the plan, and to implement plan objectives.

Public Law 92-400

The Sawtooth NRA is directed by law to consider the impacts of agency actions on several key values that were intrinsic to the creation of the Recreation Area. Guidelines for evaluating impacts to each key area are contained in the Forest Plan, Appendix I. I agree with the resource

specialist recommendations prepared for the project on substantial impairment. I find that the Decision will not substantially impair key Sawtooth NRA values, and is in compliance with Public Law 92-400.

Special Use Permit Terms and Conditions (36 CFR 251.56)

Regulations require that each special use authorization contain such terms and conditions as the authorized officer deems necessary to minimize damage to the environment and otherwise protect the public interest. My decision specifically intends to substantially reduce damage to the environment and protect public resources. The decision is consistent with 36 CFR 251.56.

Travel Management 36 CFR, Chapter 212 (2005)

Changes to the Motor Vehicle Use Map (MVUM) must consider general and specific criteria, and include an appropriate amount of public involvement. There are no travel management changes to the MVUM as a result of this project. Thus this decision is consistent with 36 CFR 212.

Migratory Bird Treaty Act (Executive Order 13186)

This Order requires federal agencies to avoid or minimize adverse impacts on migratory bird resources, and ensure that environmental analyses of federal actions required by the National Environmental Policy Act evaluate the effects of actions and agency plans on migratory birds. The project impacts were evaluated in a 2014 wildlife report included in the Project Record. The Decision was found to be in compliance with direction to protect migratory birds.

Clean Water Act

The purpose of this act is to restore and maintain the integrity of waters. The Forest Service complies with this Act through the use of Best Management Practices. This decision incorporates Best Management Practices to ensure protection of soil and water resources as derived from the National Best Management Practices Technical Guide. Other permits (such as Section 404) may be required for some project objectives and would be obtained prior to their implementation.

Wetlands Executive Order 11990

This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that an analysis be completed to determine whether adverse impacts would result. Based on the analysis contained within the project record, implementing the Decision complies with EO 11990 by maintaining and restoring wetland conditions.

Floodplains Executive Order 11988

This order requires the Forest Service to provide leadership and to take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risks of flood loss, (2) minimize impacts of floods on human safety, health, and welfare, and (3) restore and preserve the natural and beneficial values served by floodplains. The Decision complies with EO 11988 by maintaining and improving floodplain integrity.

Environmental Justice

The selected alternative will not disproportionately impact any minority or low income population in the immediate area or surrounding counties, nor will implementation negatively impact Americans with disabilities. These effects are expected to be similar for all human populations regardless of nationality, gender, race, or income level. None of the alternatives entails any known inequitable distribution of social or environmental consequences to a particular group or segment of society.

Implementation Date

Per §218.12 the responsible official may not sign a DN subject until the reviewing officer has responded in writing to all pending objections. Once the DN has been signed, it may be implemented immediately. Implementation would begin no earlier than September 2014.

Contact

For additional information concerning this Decision, contact Mark Moulton, project leader, Sawtooth National Recreation Area, 5 North Fork Canyon Road, Ketchum, Idaho 83340 or by phone at (208) 727-5000.



Jeffrey A. Rivera
Acting Sawtooth Forest Supervisor

11SEP14

Date