

MEMORANDUM

Date: September 27, 2012
To: Transfer 78045
From: mholliday
Re: transfer evaluation

This transfer proposes to change the point of diversion of right no. 74-2025B from the L-58A diversion to the LBSC-5 diversion. No change in place of use is proposed. The applicant seeks to enhance stream connectivity for the benefit of ESA listed fish species while maintaining current agricultural production. This transfer, in conjunction with related transfer 77938, will result in the elimination of the L-58A ditch on the Lemhi River.

Rick Sager, the watermaster for Water District 74, did not provide written comment, but indicated over the phone that he was not opposed to the approval of the transfer.

Authority to File:

The applicant is the current water right owner of record, and county taxlot data confirms that the applicant is the owner of the place of use. An Idaho business entity search revealed that Leslie Ellsworth is a general partner of the company and therefore has authority to sign the application on behalf of Y Livestock Ranch.

Water Right Validity:

Right no. 74-2025B was decreed in the SRBA in 2008. Review of post-decree aerial photography indicated regular use of the water rights since the time the partial decree was filed. No portion of this right appears to have been lost due to forfeiture.

Injury to Other Water Rights:

Insertion of this 1908 priority water right into the LBSC-5 ditch could potentially injure the holders of right nos. 74-1153 and 74-1065. In order to prevent this injury, a condition was added which requires right 74-2025B to be administered as a 4/2/1915 right (one day junior to 74-1153) during times of scarcity. On 7/24/2012 Karl Tyler Chevrolet, the current owner of 74-1065, entered into a private agreement with Y Livestock Ranch whereby it gave assent to this transfer.

It is not necessary to account for conveyance losses in the L-58A diversion due to the removal of this right from the ditch because companion transfer 77938 proposes to move right 74-2025A to the L-57 and L-58 diversions. L-58A will be eliminated.

The transfer was advertised and no protests were filed. It does not appear that this transfer will cause injury if it contains appropriate conditions.

Enlargement of Use:

The proposed changes will not result in enlargement of use. Neither rate nor acreage will increase. Conversation with the watermaster confirmed that water from Lemhi Big Spring Creek always reaches the Lemhi River and that the rights on the two streams are always administered to a common priority date. Therefore, a change in the delivery of this right from the Lemhi River to Lemhi Big Spring Creek does not appear to enhance the supply of water available to fill this right.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issues identified.

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