

MEMORANDUM

Date: May 1, 2012
To: File
From: Nick Van Dyke
Re: Analysis of Exchange(s) 77812, 77813

Narrative: The overall purpose of both of these applications is to provide reconnect opportunity for anadromous fish in the Lemhi River Basin. The general location of both applications is about 15 miles SE of Salmon up the Lemhi River drainage. The reconnect is to tributary Kenney Creek. 77812 is for right 74-852, applicant Robert and Amy Berasi; 77813 is for right 74-15235, applicant Gail Andrews. Ron Troy of the Nature Conservancy has been acting as a third party helping get the applications filed.

Both applications move the authorized point of diversion of both rights from the SWSW Sec29 T20N R24E (they share the same pod) on Kenney Creek to two different points of diversion for each right in the NWNE Sec31 T20N R24E. Both new pod's are upstream from the confluence of Kenney Creek and the Lemhi River. The new pod for 74-852 will be a pump pulling directly from the Lemhi. The new pod for 74-15235 will be from a wastewater ditch that ultimately dumps into the Lemhi. The ditch is in a very low-lying area adjacent to the river, essentially a slough containing both wastewater and water that is considered Lemhi River water. The location where Andrews is placing the pump to pull from the ditch is about 600' from the river.

Note in Gail Andrews' January 23, 2012, letter that is within the 77813 application, it is proposed that Mr. Andrews could alternate seasonally between the new wastewater pod and the original pod on Kenney Creek in the case of poor availability at the wastewater pod. Written notice to both the Department and the watermaster would be needed before the start of the irrigation season as to which pod would be used that year. I have contacted the watermaster for water district no. 74, Rick Sager, who is fine with this arrangement.

Authority to File: Robert and Amy Berasi are owners of record for 74-852. Both signed the 77812 application. Gail Andrews is the owner of record for 74-15235, and signed the 77813 application.

Water Right Validity: Both rights were decreed in 2007. Authorized acres under both rights appear irrigated in 2011. Forfeiture is not an issue.

Injury to Other Water Rights: None anticipated. Both exchanges improve flow conditions of Kenney Creek from the historical point of diversion of both rights down to the Lemhi River. Both exchanges will be conditioned to not allow diversion at the new points of diversion if the priority of each right is not available at the original point of diversion on Kenney Creek.

Enlargement of Use: None anticipated.

Local Public Interest: No issues identified. Applications were advertised, no protests were received.

Beneficial Use/Conservation of Water Resources: No issues identified. Review of the application finds there is not clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.