

MEMORANDUM

Date: May 16, 2011
To: Transfer 76630
From: jcefalo
Re: Eval Memo

This transfer proposes to change the point of diversion for six water rights on West Sandy Creek: 74-200, 74-203, 74-204, 74-408A, 74-408B and 74-433. The point of diversion for some of these water rights were described incorrectly in the partial decrees issued in the SRBA. The error was caused by odd quarter quarter shapes and associating the water rights with the wrong ditch.

Water under the West Sandy Creek rights is diverted through a hydropower plant before being distributed for irrigation. The Applicant and Lemhi Hydropower maintain a separate water right for the hydropower plant. The hydro right is the junior right on the creek and is often curtailed by the middle of the summer. Applicant is allowed to run their irrigation rights through the hydropower plant during the summer.

This transfer also proposes creating a combined place of use for all of the West Sandy Creek water rights and a water right from a nearby spring, 74-409A. The combined place of use will be for 543.3 acres, which is less than the total acres authorized under the individual rights. The West Sandy Creek rights were not given a combined limit in the adjudication. A combined limit will be added as part of this transfer approval.

Authority to File:

Applicant is the owner of the place of use. BLM is the owner of the POD. However, the proposed POD for the West Sandy Creek rights was already an existing POD under some of the rights, so an easement is already in place for the existing ditch and pipeline. Transfer will update ownership record for rights 74-408A and 74-409A, currently in the name of Fisher. Transfer file includes warranty deeds from Fisher to McNellis for the places of use described under those rights.

Water Right Validity:

This water right was decreed in the SRBA in 2007. Forfeiture is not an issue.

Injury to Other Water Rights:

Application was advertised and was protested by Clayne Hansen, David Lowry, and Randy Olson. The application was also opposed by the watermaster for WD74G, Pat McConnaghy. The protests stated a concern that the Applicant did not have a functioning measurement section. The protestants were also concerned that moving water rights around on the creek would cause less flow in the lower end of the creek. The applicant met with the protestants and explained the errors in the SRBA partial decrees. He also agreed to install an adequate measurement section. The protestants were satisfied with the explanation and signed a stipulated agreement withdrawing their protests. We will add a condition specifically requiring a functioning measurement section.

Enlargement of Use:

There is no evidence of enlargement.

Local Public Interest:

No issues identified.

Beneficial Use / Conservation of Water Resources:

No issue 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.