

MEMORANDUM

Date: August 22, 2007
To: Transfer 72763
From: ecarlsen
Re: Evaluation Comments

This transfer proposes to move the point of diversion from a spring with declining flows to Poison Spring which has adequate water to satisfy this additional right. Changing the source results in a change in the legal description for the POD. The applicant is also removing one of the six stock troughs connected to the existing pipeline and correcting the legal descriptions for three of the five remaining troughs resulting in a change in POU though there is no actual change in the location of the stock troughs.

Authority to File:

Applicant is the owner of record as far as the SRBA decree. BLM also owns new QQs

Water Right Validity:

Grazing allotments have been used every year. Forfeiture is not an issue.

Injury to Other Water Rights:

Right is in Water District 34 though Poison Spring is not a tributary to the Big Lost River and is not regulated by the Water Master. Approval of the application would make this one of two BLM water rights with the most junior priority on the spring. Advancing the priority to prevent injury only makes a BLM right junior to another BLM right.

Transfer will be advertised to determine any protests.

Enlargement of Use: Since Poison Spring is more reliable source of water than the original spring source there is the issue of potential enlargement. However since the priority for this right makes it junior to all other rights from Poison Spring except one with a shared priority also held by the BLM, advancing the priority or requiring a new permit application would not change how water from the source will be delivered as a result of the transfer. The number of stock grazing in the allotment, where the troughs are located, is not being increased so the quantity of water consumed will be comparable to historically quantities.

Water Right Administration: For the purpose of water right administration the "Order Amending Partial Decree for General Provisions in Administrative Basin 34 to Include General Provision 7 on Connected Sources" identified Poison Spring as a source to be administered separately from the Big Lost River during those times when the river about the reservoir is not connected. Even when the river is connected, Bob Shaffer, water master WD34, advised me because of the distance from the spring to the Chile Sinks and the small quantity of water Poison Spring produces that curtailing diversions from the spring will not benefit to the Big Lost River. Bob conceded he has never regulated diversions from Poison Spring regardless of the priorities on the river.

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.