

TO: 65-23631

FROM: Daniel A. Nelson

DATE: November 22, 2021

SUBJECT: In-house Field Exam Review

This permit qualifies for an in-house examination. However, due to several issues, I feel a field exam is needed. I will address each issue below:

- 1.) The source is described as a single unnamed stream. The permit map suggests that it could include up to 3 unnamed streams and a possible boggy area at the pond location. This may require an amendment or another filing if other water sources are being diverted.
- 2.) The permit holder stated that more water was going out of the pond than what was going into the pond. If this is the case, then there may be a need for additional water rights to cover shallow ground water diversions. However, the photos of the digging of the pond don't show any shallow ground water in the bottom of the pond, so that could be an issue.
- 3.) The pond is much larger than the number of livestock using the pond for stockwater, so a new use of recreation may be needed. There appears to be a boat dock on the pond, so it could also be used as a recreation pond. This may require an amendment to change the use or add a new use to the permit.
- 4.) It also appears as though the pond is fenced off from the pasture, so the stock may not have access to the pond.

Due to the number of issues associated with this permit, I would recommend a field visit to determine what is happening at the site. We need to determine how many water sources are feeding this pond, and whether the livestock are using the pond for watering purposes. A new permit may also be needed to account for the size of pond in relationship to the number of livestock using the pond. The permit holder asked for a waiver, and the State Office staff are currently working with the watermaster and the permit holder to determine if a waiver is justified.

MEMORANDUM

TO: 65-23631

FROM: Daniel A. Nelson

DATE: November 22, 2021

SUBJECT: Telephone Conversation with Watermaster Eric Herr

The permit holder sent a letter with the Proof of Beneficial Use Statement that a lockable controlling works or a measurement device was not needed, and the watermaster Eric Herr agreed with this assessment. On November 22, 2021, I contacted Mr. Herr to confirm the permit holder's comments and ask for additional information concerning water right permit 65-23631.

In this telephone call, Mr. Herr stated he had not been to the site to view the place of use for this permit. Mr. Herr stated he gave the permit holder his comments based on a conversation that they had when they met in town one day. Mr. Herr also stated that he generally doesn't regulate water this far up stream. Mr. Herr informed me that the permit holder claimed more water was being added to the creek than had in the past, because the spring generally didn't always make it to the creek.

I told the watermaster that I has concerns from aerial imagery that additional springs had been developed, and that additional permits may be needed to ensure that all the unnamed streams and springs being diverted are properly authorized by a water right. I also asked about the dock in the pond and that it appeared that the pond was outside of the fence where the livestock would be located. Mr. Herr could not confirm or deny any of these concerns.

It appears that the only information Mr. Herr has on this situation is what the owner told him during a chance meeting in town