

Cefalo, James

From: Cefalo, James
Sent: Wednesday, May 06, 2020 4:06 PM
To: 'Travis Thompson'
Cc: 'Kristin Moore'
Subject: Draft Transfer 80793 (Meadowlark Ranch LLC)
Attachments: Draft Transfer 80793.pdf

Travis,

Thanks for your work to get this transfer across the finish line. Application 80793 proposes to change the nature of use for four water rights, add points of re-diversion and points of injection to the rights and to declare associated water rights forfeited. Because the application is fairly complicated, I wanted to give you an opportunity to review the approval before it is issued.

A few things to note on the draft approval. The application proposes to retain irrigation as a beneficial use. I don't think it is possible to retain irrigation use on the rights. The 2012 Settlement Agreement states: "MFRE agrees to submit to the IDWR and in good faith pursue approval of an Application for Transfer of Water Right to change the remaining portions of water rights 13-885A, 13-8986A, 13-887A and 13-889C (after nine and three tenths acres are dried up for mitigation purposes) from irrigation to storage in Miller Reservoir." Permit 13-7784 includes the following condition: "To mitigate for losses associated with the storage reservoir, the permit holder shall dry up a combined total of 9.3 irrigated acres under water rights 13-885A, 13-886A, 13-887A and 13-889C. The permit holder shall then change the beneficial use for the remaining portions of these four rights from irrigation to storage through a transfer application." Both of these sources clearly state that the remaining portion will be changed to some sort of a storage right. Further, it is not possible to create a new beneficial use (irrigation storage) without giving up an existing beneficial use. The way the application is drafted, nothing is being changed (given up) to create the irrigation storage element. The approval drops the beneficial use "irrigation" from the rights. 172.5 acres can continue to be irrigated under the "irrigation from storage" component.

The application proposes to define an annual volume for irrigation storage under the four water rights. The application calculates the annual volume by multiplying the total authorized rate for all four rights (4.47 cfs) by the authorized season of use (163 days) x 1.9835. The application proposes a storage volume of 1,370 acre-feet. This would be a clear enlargement of the rights. The field headgate demand for the Preston area is 3.5 acre-feet per acre. The maximum volume we can convert to irrigation storage is 3.5 acre-feet per acre. The total storage volume would be 604 acre-feet. The irrigation storage volume for each right is still calculated based on the season of use (164 days), but the total volume for the four rights is capped at 604 acre-feet.

The volume set aside for mitigation is handled separately from the irrigation storage volume and is based on the consumptive use for the 9.3 acres being dried up.

Please let me know if you notice any errors or have any concerns by May 15th. I provided Brent Abbott a copy of the amended transfer. I am waiting to hear back from him with any concerns.

James Cefalo
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