

Skinner, Corey

From: Skinner, Corey
Sent: Wednesday, October 11, 2017 9:28 PM
To: Barker, Albert (IWRB Member)
Cc: Zach Latham; Mills, William; Dave Shaw; Jim Verdone (jverd@verdonelandarch.com); James Speck
Subject: Re: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Thanks! I will try and get them out tomorrow.

Sent from my iPhone

On Oct 11, 2017, at 6:33 PM, Albert Barker <apb@idahowaters.com> wrote:

Corey-

After review with the Board of the SVGWD they are willing to accept the drafts of these two documents, including option 2 set out in your email of 10/5/17 below of adding irrigation storage to the right no. 37-8372. Both rights must have the combined use remark that applies to both irrigation or irrigation from storage and to the irrigation storage elements of the water rights. The same is true of the monitoring and measuring requirements – they apply to both irrigation and irrigation storage in both water rights.

I think that is consistent with the prior discussions.

Albert P. Barker
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1010 W Jefferson, Suite 102
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From: Albert Barker
Sent: Wednesday, October 11, 2017 3:41 PM
To: 'Skinner, Corey' <Corey.Skinner@idwr.idaho.gov>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>; James Speck <jim@speckandaanestad.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Corey and I spoke yesterday. The essential question for my client is whether the combined use limits and the inflow/outflow metering are enough to administer the rights when both rights instead of one are now proposed to be authorized for irrigation. I am awaiting discussion with and decision from my client's board which I hope to have later today or tomorrow.

apb

From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Friday, October 06, 2017 3:55 PM

To: Albert Barker <apb@idahowaters.com>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>; James Speck <jim@speckandaanestad.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

I like your angels dancing on the head of a pin comment.

These aesthetic/irrigation ponds can be tough to wrap your mind around. IDWR will view a volume greater than the 24-hour fill allowance for 0.03 cfs (0.0595 acre-feet) diverted from the pond for irrigation use in a 24 hour period as being stored water (irrigation storage). If the applicant can live with not pumping more than the 0.0595 acre-feet (19,390 gallons) from the pond in a 24-hour period, then there is no need for irrigation storage, or irrigation from storage. The irrigation use, would be covered under the 24-hour fill allowance for right 37-8372. Depending on how the applicant operates the irrigation diversion from the pond there may or may not be a need for the irrigation storage and irrigation from storage components. Having the irrigation storage and from storage components gives the applicant more flexibility in how, and when, they apply their 8.4 acre-feet of irrigation water by having the ability to utilize the pond as an irrigation re-regulating pond. For example, they could pump 0.03 cfs from the wells for 30 hours into the pond, and then divert the same water from the pond into the irrigation system over a 6 hour period.

Keep in mind that they will only get a total of 8.4 acre-feet of irrigation water that they can pump from the wells under right 37-8372 and 37-23029 and they can only irrigate a total of 2.4 acres under the two rights. The irrigation storage, and from storage, just allows them flexibility in how, and when, they apply the 8.4 acre-feet.

From: Albert Barker (<mailto:apb@idahowaters.com>)
Sent: Friday, October 06, 2017 2:28 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>; James Speck <jim@speckandaanestad.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

I don't disagree. But, we did not understand that the new right was intended for irrigation and believed that any continued irrigation would take place under the previously existing irrigation right. My question is why is there an irrigation component to both rights? What is the reason for having it both places? What is the benefit to the applicant? You seem to suggest that the irrigation component of the previous right is only used to mitigate and that the actual irrigation of the land is taking place under the new right. Is that what these two rights together mean? What does all this mean for administration?

Maybe we are discussing how many angels can dance on the head of a pin, but we're not understanding the reason that where there was once one irrigation right, now there are two.

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From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Friday, October 06, 2017 1:54 PM
To: Albert Barker <apb@idahowaters.com>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>; James Speck <jim@speckandaanestad.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Al,

The right was applied for with the consumptive uses being mitigated. The irrigation storage and irrigation from storage volume is the same water as the remaining irrigation portion under right 37-8372 after the transfer (9.2 acre-feet). The irrigation from storage acres are the same as the irrigation acres remaining under 37-8372. Both of the approvals propose the following condition...

Rights 37-8372 and 37-23029 when combined for irrigation and irrigation from storage uses shall not exceed a total annual maximum diversion volume of 8.4 af and the irrigation of 2.4 acres.

Any irrigation storage and irrigation from storage use will come at the expense of irrigation use under right 37-8372 (mitigating for 37-23029).

IDWR typically issues water right permits with rates only, and not annual diversion volumes. Storage uses and some municipal permits are exceptions. The extent of the annual volume limit is determined during the development period of the permit (based on actual rate used, time water was actually diverted, actual beneficial use, etc.). Based on the information gathered during the licensing exam, an annual volume will then be assigned when the license is issued.

Hope this helps,

Corey

From: Albert Barker [<mailto:apb@idahowaters.com>]
Sent: Friday, October 06, 2017 10:31 AM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>; James Speck <jim@speckandaanestad.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Water right 37-23029 was applied for as a non-consumptive right. Adding an irrigation component to that right is not consistent with the application. The pond and other losses from this right would be mitigated by reduction in irrigation under 37-8372, which is an irrigation right. In transfer # 81483 the irrigation water under 37-8372 was to be injected into the new pond.

I don't understand how 37-23029 can have any irrigation right at all. All irrigation is to be done under the prior right 37-8372, as reduced by the quantity necessary for mitigation.

I also don't understand the process of leaving the volume open until licensing. Typically a right is permitted for no more than x amount. When the BU exam is done the amount in the permit can be reduced to amount of the BU but the license cannot exceed the amount in the permit. Why is the amount left open? Does it imply that a greater volume can be licensed?

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From: James Speck [<mailto:jim@speckandaanestad.com>]
Sent: Thursday, October 05, 2017 3:55 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Albert Barker <apb@idahowaters.com>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@erresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Thanks, Corey.

Jim

From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Thursday, October 5, 2017 3:54 PM
To: James Speck; Barker, Albert (IWRB Member)
Cc: Zach Latham; Mills, William; 'Dave Shaw'; Jim Verdone (jverd@verdonelandarch.com)
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Jim,

I indicated "IDWR's take on irrigation storage is that you typically cannot have irrigation storage use without having irrigation from storage use. By definition, in order to be irrigation stored water, the water needs to be released and actually used for irrigation (irrigation from storage)" in the first paragraph of my e-mail earlier this afternoon. The transfer is a situation that is not "typical".

The "irrigation storage" (along with the other storage portions) listed on the transfer is being converted for evaporative losses, or perhaps, viewing it as replacing the portion of the volume that evaporates. IDWR describes the evaporative loss volume as the same uses associated with the pond. In this case, aesthetic, recreation, wildlife, and perhaps irrigation. For the portion associated with the transfer, the "irrigation storage" for the transfer does not get released to irrigation use, it just evaporates. Therefore, there is no "from storage" for the transfer (not released to the irrigation system).

Hopefully this helps,

Corey

From: James Speck [<mailto:jim@speckandaanestad.com>]
Sent: Thursday, October 05, 2017 3:35 PM
To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; Barker, Albert (IWRB Member) <apb@idahowaters.com>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@erresources.com>; Jim Verdone (jverd@verdonelandarch.com) <jverd@verdonelandarch.com>
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Corey & Al,

We certainly prefer your second option. I should point out that the "irrigation storage" use of 0.75AF (rounded to 0.8AF) was in the transfer application. Can you also explain why there isn't an irrigation from storage component for 37-8372 after the transfer – Zach told me but I also want to hear it from you!

Thanks.

Jim

From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Thursday, October 5, 2017 3:10 PM
To: Barker, Albert (IWRB Member); James Speck
Cc: Zach Latham; Mills, William; 'Dave Shaw'
Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Al,

You are partially correct on this. As Jim pointed out in his e-mail, irrigation storage was included on application for permit 37-23029 (last use on page 3 of the application). However, you are correct that irrigation from storage was not listed as a use on the application. In addition, the narrative that accompanied the applications indicated that the pond would be used as an "irrigation pump pond". IDWR's take on irrigation storage is that you typically cannot have irrigation storage use without having irrigation from storage use. By definition, in order to be irrigation stored water, the water needs to be released and actually used for irrigation (irrigation from storage). In hindsight, IDWR should probably not have advertised the application without seeking clarification from the applicant &/or their representatives regarding the irrigation storage/irrigation from storage use and possibly amending the application to describe the correct uses.

We have encountered these types of situations in the past, where an application has been processed with uses that do not quite conform to IDWR's standards for describing water use(s). We have used some "interpretation" when actually issuing the permit and often have to consider the intent of the

application. The most recent one that comes to mind related to irrigation/irrigation storage/irrigation from storage uses and adding uses to the permit (very similar to this case).

Considering the specifics of this particular case, the applicant described a pond having a surface area of 0.59 acres and an average depth of 5.75 feet resulting in a storage volume of 3.39 acre-feet. The uses listed for the pond included "irrigation storage" and the narrative indicated that it would be utilized as an "irrigation pump pond". IDWR will allow a "24-hour fill allowance" without storage being listed as a use as described in the "utilization of the 24-hour fill allowance for impoundments" memo on our website...

<https://idwr.idaho.gov/files/water-rights/20130418-Utilization-of-the-24-Hour-Fill-Allowance-for-Impoundments.pdf>

Without irrigation storage and from storage uses the applicant could keep their pond full and pump from the pond on a daily basis an amount equal to the 24 hour fill volume using the allowed irrigation rate. In this case, the rate allowed by 37-8372 is 0.03 cfs (after the transfer). The 24-hour fill allowance for 0.03 cfs would equate to 0.0595 acre-feet (0.03 cfs x 1.9835 acre-feet per day per cfs). This 0.0595 acre-feet over a pond having a 0.59 acre surface area would equate to 0.1 feet, or 1.2 inches, of water fluctuation (0.0595 / 0.59 acres).

I see two possible options to move forward...

- We could issue the permit, without the irrigation storage use if the applicant can limit the irrigation drawdown on the pond to 1.2 inches. This is a very small amount, and may be problematic to design, manage, and regulate.
- We could issue the permit, as proposed, with the irrigation storage and irrigation from storage amounts listed, which are equal to the remaining available irrigation volume under right 37-8372. Note if this is done, I would propose also adding an irrigation storage volume of 0.8 acre-feet to the transfer approval. Note that "irrigation storage" was listed on the transfer application, but not listed on the draft approval document that was circulated. This portion of the right is the portion that evaporates from the pond and should describe all the storage uses on the permit.

Maybe, you and Jim &/or Zach want to talk this over and let me know how you all want to proceed?

Corey

From: Albert Barker [<mailto:apb@idahowaters.com>]

Sent: Thursday, October 05, 2017 11:43 AM

To: Skinner, Corey <Corey.Skinner@idwr.idaho.gov>; James Speck <jim@speckandaanestad.com>

Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>; 'Dave Shaw' <dshaw@eroresources.com>

Subject: RE: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Corey-

Thank you for providing us a chance to look over the draft approval. We do have a question about how the draft appears to have varied from the application. It appears that irrigation storage and irrigation from storage were added to permit 37-23029. I don't remember that irrigation storage and irrigation from storage were included in the permit application. Can you add a use above what is in the

application that has been published? The transfer of 37-8372 does not mention the irrigation storage or irrigation from storage as purposes of use.

Can you explain the thinking on this topic behind how the rights are proposed to be permitted and transferred?

Thank you.

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From: Skinner, Corey [<mailto:Corey.Skinner@idwr.idaho.gov>]
Sent: Tuesday, October 03, 2017 10:48 AM
To: James Speck <jim@speckandaanestad.com>; Albert Barker <apb@idahowaters.com>
Cc: Zach Latham <zach.latham@brockwayeng.com>; Mills, William <William.Mills@idwr.idaho.gov>
Subject: Draft Approval Documents for Transfer # 81483 and Permit 37-23029 (Ridgeview Smith Properties LLC)

Please find attached draft approval documents for Transfer # 81483 and Permit 37-23029, both in the name of Ridgeview Smith Properties LLC. Conditions have been included that attempt to incorporate the elements outlined in the August stipulations. Note that some of the amounts are slightly different. Efforts were made to round rates to the nearest hundredths (0.01) of a cfs, acres to the nearest tenth (0.1) of an acre, and volumes to the nearest tenth (0.1) of an acre-foot. This is consistent with recent IDWR approvals relating to small amounts outlined in stipulations &/or mitigation plans.

I am prepared to sign and issue the attached approvals. Let me know if you have any questions and if you are in agreement with the proposed approvals.

Thanks,

Corey