

NOTES

PREHEARING CONFERENCE

SCHWARTZ TRANSFER NO. 78950 of WATER RIGHT NO. 67-195

Date: Thursday, May 7, 2015

Location: County of Washington Courthouse – Law Library

Time: Angela Grimm, IDWR began the conference at 10:30 am.

Introductions - IDWR:

Participants present at the beginning of the meeting introduced themselves. See attached Roster of Attendance for complete list of participants.

Purpose of Conference/Handouts - IDWR:

Agenda along and copy of Transfer No. 78950 Application for Water Right No. 67-195 (application) were distributed (copy attached).

Angela Grimm, IDWR explained purpose of prehearing conference.

Applicant provided Explanation of Project – Frank Schwartz:

Frank Schwartz provided a map (handout – SRBA Recommendation 67-195 Map copy attached). Schwartz does not intend to use point of diversion in Section 35 (transfer proposes to remove as a point of diversion from right). Some live flow in Advent Gulch mixes with water from ditch. Limited devices and measurement at take-outs from Advent Gulch along with ditch losses over four (4) miles of ditch between point of diversion and Schwartz property make it difficult for him to get is allotment. Schwartz's wants to improve efficiency with closer diversion and installation of sprinkler systems vs. gravity irrigation. The second point of diversion to be added to the right is for pumping efficiency (don't have to pump as far). Concerns related to liability for maintenance issues also reason would like to remove Section 35 point of diversion from right.

Protestant(s) stated Issues/Concerns – Roy Mink appointed spokesperson for protestant Mink Land & Livestock:

Section 35 point of diversion canal serves Advent Gulch. Advent Gulch is not a live stream; it's fed mostly by canal. Wild game, cattle, trees, etc. in the country side around Advent Gulch depend on the water. Concerned with preservation of this historic site, at one time area settled families had plenty of water. Main concern with transfer is removing Section 35 point of diversion from the right. Not initially concerned with request to add new point of diversion in Section 23.

Applicant Responses – Frank Schwartz:

Suggested land owners in Advent Gulch area develop springs or wells for stockwater, although expensive. Or perhaps pipe water to livestock.

IDWR Comments/Questions – Angela Grimm:

Is Advent Gulch only fed by canal? Parties present indicated some early spring runoff, but mostly fed by canal/diversion in Section 35. Not currently fed by springs.

Discussion, Simply the Issues – All Parties:

Roy Mink concerned with preservation of historic Advent Gulch area. Worried if diversion in Section 35 shut down by Watermaster (happened last year when Schwartz told Watermaster did not wish to divert from Section 35 point of diversion), land will all dry up with no water for livestock, wild game, trees, etc.

Linda Mink mentioned people in subdivision above Advent Gulch are “stealing” water, i.e. diverting out of priority. Despite Watermaster shutting them down, subdivision homeowners put own pumps in creek and divert out of priority. Watermaster indicated she’s been unable to “catch them in the act”, but is aware of the issue.

Settlement Options:

Linda Mink asked Frank Schwartz if he would agree to let water down from the Section 35 diversion when he’s not using for irrigation, like when cutting hay.

Frank Schwartz said he sees his use being pretty much continuous during the irrigation season, because when he’s not irrigating hay he’s irrigating pasture ground.

No agreements reached during the prehearing conference.

Specific Dates and Deadlines:

Hearing: IDWR indicated likely set up hearing in late summer/early fall (August or September), IDWR will send out calendars to schedule with parties once hearing officer assigned.

Discovery: Discussed in limited terms what discovery process is. IDWR will issue order to start.

Witnesses: Parties agreed minimum of 30 days prior to hearing ok timeframe to have witnesses identified.

IDWR will issue an order to start discovery, set hearing date, and set other associated process deadlines.

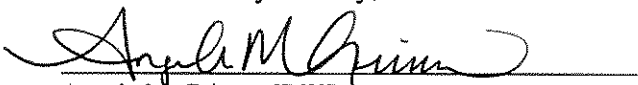
Questions to Follow Up with Information to Parties:

Frank Schwartz – Does item No. 5 under ISSUES portion of PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER handout (Mr. Schwartz brought with him) apply to him/his proposal since his proposed place of use is not outside the local area where the source of water originates? IDWR staff, Angela Grimm, stated she believed it would not apply, but told Mr. Schwartz IDWR would follow up with an answer to his question.

Frank Schwartz – Handout sent with prehearing notice has item indicates in some cases discovery is not allowed, Frank Schwartz would like to know what would those instances be. IDWR staff, Angela Grimm, was unable to answer the question at the prehearing conference, but told Mr. Schwartz IDWR would follow up with an answer to his question.

Prehearing conference adjourned at approximately 11:15 am.

Dated this 7 day of May, 2015.


Angela M. Grimm, IDWR