

Maline, Denise

From: Brian Higgs [brian@waterwellconsultants.com]
Sent: Tuesday, May 05, 2015 4:44 PM
To: Maline, Denise
Cc: William A Parsons; Jaxon Higgs
Subject: Re: Comment Letters for Transfers 79902 & 79943

Hi Denise.

I have no comment on transfer #79902.

Transfer #79943 has not been brought forward in good faith. The statements in the application do not represent the facts observed on the ground.

1.A.2 "The new water right..."

1.5.g The box "undergone a period of five or more consecutive years of non-use" is checked.

3.C "There will be no expansion of the acres of irrigation ..."

For verification of these facts see WMIS for these wells.

WMIS number 1000407. Site visit comments state:

"7/2/2014 No longer a well at this gps location"

"7/8/2011 No well, pumps, or electrical improvements observed."

Also see WMIS number 1000166 which is the second well listed as a POD.

"6/30/2012 ... runs a drip system for a few trees... runs the house below..."

One well of the 2 POD's listed does not exist. The small submersible pump in the second well used for the house, that delivers a drip system for a few trees from a spigot, cannot deliver irrigation water for 1 acre nor 67 acres. Obviously, if the surface water was not sufficient the groundwater right was not utilized.

The applicants statement concerning the availability of surface water at the new POD being greater is misleading. There may be more surface water available at the new POD, however, the groundwater was never used at the original POD. In a letter included in the application package, dated 3/26/2015 from G. Erick Powell, to Allen Merritt it states, "transferring of this right...will not cause an expansion of the ground water over historical use." If groundwater has not been historically used an expansion of groundwater use will occur.

In the memorandum dated 4/28/2015 from Jim Bitzenburg, under the statement "Injury to Other Water Rights" Mr. Bitzenburg states, "Information supplied with the application appears to indicate that the right will be used less in the proposed place of use." This is impossible if the right was never used at the old place of use.

The argument that the well was partially decreed in 2010 does not preclude that the fact that use of groundwater from this well is an increase and an expansion of groundwater in the already severely stressed Marsh Creek drainage. The Montgomery's never used this supplemental right while the Albion 12 Investments, a growing and expanding property, infers intentions to use the groundwater every instance surface water is insufficient. That is an expansion.

Thank you.

Brian