

MEMORANDUM

DATE: October 28, 2013

TO: Water Right Files 63-33721, 63-2958, and 63-31988

FROM: Shelley W. Keen

RE: Approval Conditions

Approvals for Permit 63-33721 and for Transfer 78338 (Rights 63-2958 and 63-31988) are being drafted so that the right holder can divert ground water only from water bearing formations shallower than 200 feet below ground surface. The purpose of this limitation is to prevent withdrawals from deeper zones that appear to be seeing declines. Withdrawals should be from shallower formations that appear to be recharged annually from surface water and are not experiencing declines. See the 10/23/2013 memo by Dennis Owsley. According to the 3/12/2013 letter from the applicant's consultant, Dave Shaw of ERO Resources Corp., one of the two existing wells is 62 feet deep, and the other is 188 feet deep. The proposed third well should not exceed 200 feet in depth.

Also to protect existing ground water, the approvals are being drafted to require the use of the appurtenant surface water right, License 63-32010, as a primary supply. Little Gulch Creek is the source of water for Right 63-32010. Combined use limits are intended to prevent the diversion of more than 0.02 cfs per acre or 4.5 af per acre from Right 63-32010, 63-2958, 63-31988, and 63-33721 combined. Although the Farmers Union Ditch Company and New Dry Creek Ditch Company deliver water to farms in the area, the applicant does not receive water from either of those companies.

The right holder will inject ground water diverted in Govt. Lot 4 of Section 3, T4N, R1W, pursuant to Rights 63-2958, 63-31988, and 63-33721 into a pond constructed in the channel of Little Gulch Creek. The right holder will then pump the injected ground water from Little Gulch Creek at a point of redirection that also serves as the point of diversion for Right 63-32010. Points of injection and redirection will be added to the approvals to describe this commingling of water. It is not necessary to republish the applications to add points of injection and points of redirection. They occur on the right holder's land within a few feet of each other, and their use could not injure any other water users.

IDWR will require the right holder to measure and report diversions from all three ground water points of diversion and from the point of redirection to ensure compliance with the "surface water first" requirement and with the combined use limits. The extent of reliance on surface water pursuant to Right 63-32010 can be determined by subtracting the amount of water diverted from the two wells in Govt. Lot 4 of Section 3, T4N, R1W, from the amount of water pumped through the point of redirection.

To files 63-33721
63-2958
63-31988

Comment Report

63-32010

1. Igraves 12/6/2004 Legal Notice Remarks

Comment: Applicant agrees to mitigate consumptive use in the future as needed. Source is surface water tributary to the Boise River below Star Bridge. Majority of water in the Creek is irrigation wastewater. Development has existed since the 1970s.

2. Igraves 12/6/2004 Comment/Analysis

Comment: Source was originally listed on the application as wastewater, then amended to Little Gulch Creek as labeled on the topo map. Applicant started leveling the ground in 1974 and built a pond ~1.4 af in size (50x120x10 ft). The pond appears to be located on the old stream bed. Applicant stated that the pond has an overflow pipe the leads directly into a buried concrete tile pipe that flows ~1 mile south and discharges into an unnamed drain/canal. The natural stream bed beyond the pond was leveled in 1974 and is now being farmed. As indicated on the topo map, Little Gulch Creek is an intermittent stream. According to the applicant and Farmers Union Ditch Company (FUDC), the Creek only flows during the irrigation season with wastewater from neighboring fields. Applicant has been using the wastewater/Creek water, but does not have shares in FUDC. Gene Bailey, President of FUDC, verified that the applicants property was in the FUDC service area but FUDC does not provide water to the subject acres. Mr. Bailey submitted a letter dated 11/11/2004, stating that FUDC did not object to the application. It appears that the wastewater/Creek water is tributary to Middleton Water Co. Canal, however, according to Jerry Kiser, attorney for Middleton Irrigation District, the wastewater/Creek water is piped under their canal and into the next unnamed drain, which is under the control of Drainage District No. 2. The canal and the drain are tributary to the Boise River below Star Bridge. Both Middleton Irrigation District and Drainage District No. 2 will be sent notice.

Applicant also diverts groundwater into the pond (63-2958 & 63-31988). He then pumps the combined water from the pond onto the 240 acres for irrigation. Applicant stated that he can usually count on ~400 gpm wastewater flowing into the pond, sometimes more. Based on the size of the existing pond and the amount of flow rate listed on the application, a storage component does not appear necessary. Applicant also filed transfer no. 71630 to add a p/d to his ground water rights. No other rights are used.

3. kwalker 3/2/2005 Permit Review

Comment: Application is for water tributary to Boise River below Star Bridge. Can process without delay. Place of use overlaps with Rts. 63-2958 & 63-31988 (expansion claim) from groundwater source. Supplemental use conditions not applicable. No shares from Farmers Union Ditch Company appurtenant to this land per letter in file from them. Drainage Dist. #2 given notice of this application, no response received. Application falls within Little Gulch Creek contamination area but is for surface water so not a problem. Recommend approval.

* FUDC letter can water does not provide shares to owner, although not directly stated in letter