

Mills, William

From: Yenter, Cindy
Sent: Tuesday, May 07, 2013 2:59 PM
To: Greg Sullivan
Cc: Mills, William
Subject: Baker Transfer 78405
Attachments: Meas Plan Form 130 - irr.pdf; Baker 7S24E.jpg

Greg – After an exhaustive review of the above transfer application, I have identified a number of issues which will need to be cleared before this application may be forwarded for approval. Some of these I know you are aware of, and others, including a new compliance concern, I have discovered during my review.

You have likely been notified that the application was protested by the BLM. The basis for the protest was federal land adjacent to and in the same QQ as the new Place of Use. This is likely resolvable by the addition of a condition on the water rights. You will need to reply to the protestant and to the correspondence sent by IDWR.

The following issues must be resolved or additional information must be supplied before this application may move forward. As you know, IDWR has recently memorialized its existing position on processing transfers involving leased and rented rights, and is strictly enforcing this position. This is not new policy, just a reaffirmation of practices that were previously being implemented much more informally. As watermaster I completely support this decision. Processing and administration of new transfers is difficult enough without the added complication of tracking leased and rented acres. I will not offer a watermaster recommendation of this application and IDWR will not consider approval until all outstanding WSB conflicts and any compliance issues are resolved.

Right no 36-7699:

The active Water Supply Bank (WSB) lease for 2.5 acres must be withdrawn. There is no active rental on these acres.

Right nos 36-2453A / 13065A:

The 8.3 acres is currently under an active WSB rental through 2015. This rental must expire or be cancelled, and the lease then withdrawn.

The location of the 8.3 acres to be sold from these rights is not consistent with the the presently irrigated acres and must be modified. The distribution of acres is as follows-

	Water Right	Transfer	Currently Irrigated
NWNW S2	13.5	4.7	0
SWNW S2	35.5	1.4	31
NENE S3	7	2.2	9.7

Total acres irrigated under this right is limited to 260.3 and is not in excess of the remainder total authorized after the transfer. The distribution of acres among QQ tracts on the north portion of the farm (NE S3 and W ½ NW S2) has shifted over time and no longer exactly matches the water right record. The discrepancies are not significant enough to generate a compliance action from me at this time, although removing 2.2 acres from NENE S3 would further reduce water right acres to less than 5 in that QQ, and present irrigation is nearly 10 acres there. I would recommend that the application be amended to leave all acres in NENE S3, and move the 2.2 transfer acres to NWNW S2 (for a total of 6.9 in that QQ) to better balance the remaining acreage distribution. I've attached a photo which illustrates the current irrigation distribution.

Your client could consider a follow up transfer to realign acres but that won't be required at this time.

Right nos 36-2467 / 2668:

The 15.6 transfer acres are part of a WSB lease of 27.8 acres under these rights. All 27.8 acres are rented for 2013. The rental must expire and 15.6 acres withdrawn from the lease.

I have found indicated irrigation on this farm in excess of the acres allowed considering CREP and WSB acres. 84.8 acres are enrolled in CREP on this farm. Combined with the 27.8 leased acres, this is a total of 112.6 idled acres, or a balance of 537.4 irrigated. I found approximately 548 acres irrigated, or 10.6 acres excess irrigation. Further, my analysis suggests that these excess acres may be leased acres which were not idled. This constitutes an enlargement of the leased rights. Within a few days Mr. Baker will receive a separate compliance notice from this office, and you will receive a copy. Mr. Baker will have an opportunity to meet with IDWR to discuss this matter and provide explanation and restitution, if this proves necessary.

New POU (Jeremy Smith)

The new diversion established under this right will be required to be measured. A measurement plan from Mr. Smith will be required to be submitted to me prior to my recommendation. I have attached a measurement plan form.

IDWR feels Mr. Baker does have a few options if he wishes this application to move forward before the WSB rentals expire. These options involve idling additional, non-leased acres under the transferred rights, or amending the transfer application to remove leased acres which cannot be immediately freed up. The application might be approved with less total acres and Mr. Smith would need to re-apply next year to bring in the balance of acres once the lease and rental conflicts have been removed.

Please phone me at your convenience and we can discuss this.

*Cindy Yenter
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