

MEMORANDUM

To: File(s) 22-380B, 22-380C, 22-11579, 22-11993, 22-13536

From: Nick Van Dyke

Date: May 5, 2013

Re: Analysis for Applications to Lease/Rent Water from the Water Supply Bank; Spring Creek –Teton Basin Water Transactions Program

PURPOSE/NARRATIVE: Applications received March 6, 2013. Intent of the applications (apps) is to allow for improved stream flow/conditions on Spring Creek which is tributary to the Teton River in basin 22 near Teton. Five leases were received along with four rentals. All of the rentals were filed by the Idaho Water Resource Board (Board). The beneficial use for the rentals will be minimum stream flow. One of the rentals will be paired with two water rights; the other three rentals are to be paired with one right each:

- Rental for 4.00 CFS/437.5 AF. Leasing rights 22-11579 and 22-13536 (both owned by City of Teton)
- Rental for 0.07 CFS/12.3 AF. Leasing right 22-380B (owned by Mitchell Smaellie)
- Rental for 0.11 CFS/20.3 AF. Leasing right 22-380C (owned by Richard Laverie Beard)
- Rental for 0.17 CFS/29.8 AF. Leasing right 22-11993 (owned by Richard and Ella Beard)

Each of the lease/rental packages proposed a negotiated rental rate versus the standard \$17.00 per acre-foot. The lease/rentals between the Board and the City of Teton and Mitchell Smaellie proposed zero fee be paid to the lessors; only the 10% administrative fee would need to be paid. The lease/rentals between the Board and the Beard's proposed an annual lessor payment of \$87.65 per acre per annum rented along with the standard 10% administrative fee. The \$87.65 per acre amount was based upon an agricultural valuation of the rights. The historical use under Beard's rights has been one cutting of hay and then pasturing the aftermath per documentation submitted with the apps.

AUTHORITY TO FILE: Regarding the rental apps, Brian Patton of IDWR signed on behalf for the Board. Gloria Hoopes, Mayor of Teton, signed for lease apps 22-11579 and 22-13536. Mitchell Smaellie signed lease app 22-380B. Richard LaVere Beard signed lease app 22-380C. Richard and Ella Beard signed lease app 22-11993.

WATER RIGHT VALIDITY: All five rights were decreed in the SRBA 11/24/2008. Forfeiture is not a concern.

INJURY TO OTHER WATER RIGHTS: None anticipated. See attached watermaster comments to this memorandum.

ENLARGEMENT OF USE: None anticipated.

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

The rental appears consistent with conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

See attached email correspondence from the Watermaster of District 01.

Sarah Rupp

From: Swank, Lyle <Lyle.Swank@idwr.idaho.gov>
Sent: Tuesday, October 30, 2012 9:41 AM
To: Olenichak, Tony; Case, Morgan
Cc: Sarah Rupp
Subject: RE: Teton River Basin Transaction

Tony,

My analysis of the proposed change of the 5 water right identified from Tetonia Canal on Spring Creek to the mouth of Spring Creek is the same as yours. Because this particular Creek is a gaining stream, moving to the mouth of Spring Creek should not adversely impact the users between the Tetonia Canal and Spring Creek mouth.

Based on my knowledge of the local hydrology this is a gaining reach. Unless there are diversions between the previous point of diversion and the new location of the water use, and who have benefited either directly or indirectly from the previous localized diversions, we do not anticipate injury. If, during the time period this water is in the Water Bank, there is shown to be an adverse impact or injury to other water users, the water bank transaction could be allowed to expire and would not need to be renewed.

This particular situation does not necessarily apply to other tributaries who may have different hydrological circumstances.

Morgan, please use this email as my response to the requested watermaster remarks.

Lyle Swank, P.E.
Watermaster,
Water District 1

From: Olenichak, Tony
Sent: Thursday, October 25, 2012 11:04 AM
To: Swank, Lyle
Cc: Case, Morgan; Sarah Rupp (sarah@tetonwater.org)
Subject: FW: Teton River Basin Transaction

Lyle,

A request is being made to change the delivery of 5 water rights from the Tetonia Canal on Spring Creek near the Town of Tetonia through the State Water Bank, moving the point-of-diversion for the 5 rights downstream approximately 3 ½ miles from the Tetonia Canal to a measured point on Spring Creek near the Breckenridge diversion where Spring Creek meets the Teton River. The 3 ½ mile section of Spring Creek between the Tetonia Canal and the newly proposed delivery point is perennial and likely never falls under the guise of futile call. Assuming a measurement-section can be established at the newly proposed delivery point at the mouth of Spring Creek and there is no loss of water through the 3 ½ mile section, it appears to me there wouldn't be any impact on other Spring Creek water users if the 5 water rights were delivered to the new measurement point in contrast to delivering the water rights to the Tetonia Canal headgate when the water rights are in priority.

If you agree with this analysis or have any other thoughts, would you please forward your Watermaster response to Morgan Case so she can proceed with processing of the water transaction?

Tony Olenichak

Program Manager
Water District #1
208-525-7171

From: Case, Morgan
Sent: Tuesday, October 23, 2012 12:40 PM
To: Olenichak, Tony
Subject: Teton River Basin Transaction

Tony,

As you are aware, Friends of the Teton River is partnering with the Idaho Water Resource Board to develop a flow restoration project (water transaction) in the Teton River Basin. Sarah Rupp, from FTR, has identified several water users who are willing to lease their Spring Creek water rights into the Water Supply Bank for delivery to the Teton River Minimum Stream Flow.

The Board would like your perspective as the watermaster about these transactions. Specifically, whether it is possible to deliver the water rights in priority.

I have attached the proof reports for the 5 water rights under consideration.

Thank you for your time and consideration of this matter.

Morgan

*Morgan Case
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