

Nelson, Dan

From: Nelson, Dan
Sent: Thursday, February 16, 2012 9:14 AM
To: 'zach.latham@brockwayeng.com'
Cc: Van Bussum, Monica; Yenter, Cindy
Subject: RE: Water Supply bank Lease Applications for Gary and Beverly Garner

Hello Zach,

I sent you the message below concerning the Gary and Beverly Garner WSB lease applications last week, and I hadn't heard back from you. I wanted to make sure that received the message, since it had a time sensitive deadline for response. The full message has been included below.

I would appreciate a quick email to let me know that you received my earlier email. Thank you so much for your time and effort.

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From: Nelson, Dan
Sent: Thursday, February 09, 2012 10:28 AM
To: 'zach.latham@brockwayeng.com'
Cc: Van Bussum, Monica; Yenter, Cindy
Subject: Water Supply bank Lease Applications for Gary and Beverly Garner

Hello Zach,

Monica Van Bussum has asked if I could review the Garner Water Supply Bank (WSB) lease applications to expedite the process. I did the review and submitted the applications to Cindy Yenter, the watermaster for Water District 130, for Watermaster review.

Cindy brought up an interesting issue that I did not consider during my initial review. On the face of the application, it seems reasonable to lease all of the expansion water right (36-12043) and a portion of the base water right (36-2381A) as long as the diversion rate for 36-2381A exceeded the 0.25 cfs diversion rate attributed to 36-12043. However, I did not take into account the conditions regarding the combined acreage and diversion rate limitations and how if they were not proportionately split the lease could result in an expansion of the water right combined diversion rate per acre.

As the irrigation system is currently set up, the combined water rights can provide approximately 0.014 cfs per acre to irrigate 308 acres ($4.27 \text{ cfs} / 308 \text{ acres} = 0.01386363 \text{ cfs/ac}$). If we process the lease applications as you proposed the portion that would remain on the property would no longer have a combined limitation, and would be able to apply the full rate per acre for water right 36-2381A of 0.015 cfs per acre to irrigate the remaining 265.2 acres ($4.27 / 290 = 0.14724138 \text{ cfs/ac}$). This would result in an expansion of the water right diversion rate per acre remaining on the land that will continue to be irrigated.

Additionally, the combined limitation of these two water rights would be limited to the diversion rate of portion of water right 36-2381A being leased to the WSB. The portion being leased to the WSB from 36-2381A is 0.37 cfs $[(4.27 / 290) \times 24.8 \text{ acres} = 0.365158621 \text{ cfs}]$, which will reduce the combined rate per acre for both water rights to approximately 0.008 cfs per acre $(0.37 \text{ cfs} / 42.8 \text{ acres} = 0.00864486 \text{ cfs/acre})$. Most pivots currently are designed to operate at a diversion rate of 6 gpm/acre or 0.0123368984 cfs/acre, so anything under 0.01 cfs per acre for a diversion rate would make it very difficult to rent this water right out of the WSB. For a water right to be accepted in the WSB we must be able to rent this water right out of the WSB.

The standard practice when splitting water rights is to take a proportionate share of each water right. The following would be the proper proportionate splits of these water rights:

KNOWN FACTORS: Total acres leased to the WSB = 42.8 acres

Combined Diversion Rate =

$42.8 \text{ acres} \times (4.27 \text{ cfs} / 308 \text{ acres}) = 0.59336363 \text{ cfs}$ (Rounded to 0.59 cfs)

Water Right 36-2381A Acreage and Diversion Rate (full diversion rate must come from this base water right):

Existing Water Right Diversion rate and acreage allowed = 4.27 cfs / 290 acres

$0.59 \text{ cfs} / (4.27 / 290) = 40.1 \text{ acres}$

WSB lease for water right 36-2381A should be for 0.59 cfs for 40.1 acres

Water Right 36-12043 acreage and diversion rate:

Existing Water Right Diversion rate and acreage allowed = 0.25 cfs / 18 acres

$42.8 \text{ acres total lease acres} - 40.1 \text{ acres from 36-2381A} = 2.7 \text{ acres leased from 36-12043}$

$(0.25 \text{ cfs} / 18 \text{ acres}) \times 2.7 \text{ acres} = 0.0375 \text{ cfs}$ (rounded to 0.04 cfs)

WSB lease for water right 36-12043 should be for 0.04 cfs for 2.7 acres.

The combined limitation would be for 0.59 cfs and 171.2 af for 42.8 acres of irrigation when water rights 36-2381A and 37-12043 are combined. Please Note: Neither water right has a volume amount except in the combined condition limitation, which is based solely on the combined volume and acreage amounts.

You still have the option to move forward with the WSB leases as they were submitted, but expansion of a water right or combination of water rights could result in the rejection of a WSB lease. I would strongly recommend that you amend the applications to reflect the diversion rate and acreage splits shown above. I can give you until February 24th to submit amended applications, or to inform me that you wish to move forward with the leases as they are currently submitted. If the leases are rejected, your client will be required to re-file the WSB leases including an additional fee. No fee will be charged for amending the applications if received by February 24th 2012.

If you have any questions, please don't hesitate to contact me.

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SCANNED
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