

MEMORANDUM

To: Water Right File No(s). 2-2371 and 2-10032

From: Monica Van Bussum

Date: September 1, 2012

Re: Review of Applications to Lease Water Rights to the State Water Supply Bank

PURPOSE/NARRATIVE: On May 21, 2012, the Department received applications to lease pivot corners associated with these rights to the Bank for the 2012 season.

These water rights have a combined diversion rate limit with a number of other water rights. None of the other rights have the limit. These two are the most junior of the bunch. I talked about the diversion rate limit with John Marshall, attorney for the rightholders, and he indicated they objected to this in the SRBA but withdrew their objection because this farm and the water under the other rights are all managed by the same group (Mark Noble of MAN Farms and Allen Noble of ATN Holdings). The Nobles divert less than 71 cfs to begin with, so there shouldn't be enlargement issues with rental. See the attached email and spreadsheet from John for the numbers breakdown.

AUTHORITY TO FILE: The applications were signed by Mark Noble, manager of MAN Farms LLC.

WATER RIGHT VALIDITY: Imagery indicates these acres were irrigated in 2011. These rights were also partially decreed in the Snake River Basin Adjudication in 2011.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: No enlargement is evident through the lease alone. Proper rental review should protect against enlargement.

The rights indicate they are within the Sailor Creek Project. We will need more information about how the water has been used in conjunction with the Sailor Creek Project water before we can rent them. I've put a request for additional information in the cover letter.

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 lease appears consistent with the conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

None. I asked Steve Lester about the Sailor Creek Project and he indicated the Sailor Creek Project rights are for surface water from the Snake, the same as these water rights. It's unlikely these rights have been commingled with Sailor Creek Project water but the rental acceptance cover letter requests such information.

Van Bussum, Monica

From: John Marshall [john@jmarshalllaw.com]
Sent: Thursday, September 06, 2012 6:42 PM
To: Van Bussum, Monica
Subject: Sailor Creek system water bank
Attachments: Sailor Creek water bank analysis.xls

Monica, I write regarding the 71-cfs combined diversion limit that appears on the two most junior of the 6 water rights that make up the Sailor Creek irrigation project (rights 2-2371 and 2-10032). I put together a spreadsheet that shows the effect of the combined use limit spread over all 6 rights that I have attached.

I represent both ATN Holdings and MAN Farms LLC. These entities both treat the combined use limit on 2-2371 and 2-10032 as applicable to all the rights in the system. Accordingly, both entities treat the rights as though the diversion rate for each right is the rate reflected in column H on the attached spreadsheet, which, as indicated in column K, equates to a 0.86 inch/acre diversion rate for each right. If you have questions or need anything more, please contact me.

Thank you,

John

Right	Actual Owner	Priority	Rate (cfs)	Acres	cfs/acre	inch/acre	cfs - 71	inches	cfs/acr	inch/acre
							limit	w/ limit	e w/ limit	w/ limit
02-2186	ATN Holdings LLC	#####	6.16	308	0.02		1	5.28	263.79	0.017
02-10477	ATN Holdings LLC	#####	18.08	904	0.02		1	15.48	774.23	0.017
02-10034	ATN Holdings LLC	#####	17.38	869	0.02		1	14.89	744.26	0.017
02-10035	ATN Holdings LLC	#####	28.48	1424	0.02		1	24.39	1219.59	0.017
02-2371	MAN Farms LLC	#####	8	400	0.02		1	6.85	342.58	0.017
02-10032	MAN Farms LLC	#####	4.8	240	0.02		1	4.11	205.55	0.017
			82.9	4145				71.00		

System rate per acre at 71.0 c/d 0.0171

Van Bussum, Monica

Subject: FW: MAN Farms/ATN Holdings Bank lease applications

From: Lester, Steve
Sent: Tuesday, September 04, 2012 8:55 AM
To: Van Bussum, Monica
Subject: RE: MAN Farms/ATN Holdings Bank lease applications

Hi Monica:

Sailor Creek project was a Desert Land Entry development on BLM land, appears Ringert was involved back in the day. Similar to Cottonwood Canal Co. setup also involving Ringert – lots of Snake River Water for many acres.

Name probably originated from Sailor Creek Water Co. – not an irrigation district. I haven't looked but don't imagine ground water is also involved.

Not sure why there is combined rate limit – don't see any recent transfers that would have added that. Maybe something in SRBA, objections & settlement? Is 2-10032 an expansion right that might relate to limits?

Does appear troubling to put those 2 in the bank if they don't add another increment of water to the situation.

SL

From: Van Bussum, Monica
Sent: Sunday, September 02, 2012 3:09 PM
To: Lester, Steve
Subject: MAN Farms/ATN Holdings Bank lease applications

Hi Steve,

I'm processing a bunch of partial lease applications (mostly pivot corners) for MAN Farms and ATN Holdings. John Marshall has filed the lease applications on behalf of his clients. Anyway, just about everything looks fine – partially decreed in 2011, no ownership issues, few overlaps – but 2-2371 and 2-10032 have an interesting limiting conditions, which says:

Rights 2-2186, 2-2371, 2-10032, 2-10034, 2-10035, 2-10043, 2-10248, and 2-10249 when combined shall not exceed a total diversion rate of 71.0 cfs.

I looked up the authorized diversion rates for this list of rights and they are all owned by ATN Holdings or MAN Farms. All but 2-2186 have some portion offered to the Bank and those diversion rates add up to 82.9 cfs. Interestingly, *none* of the other rights have that same diversion rate limiting condition on them. What do you make of that? I'm not sure how to accept portions of these rights into the Bank without enlargement.

Also, they all have this condition in them as well:

Place of use is within the area served by Sailor Creek Project.

What is the Sailor Creek Project? Is that like an irrigation district where we have to worry about supplemental/primary water?

Any help you can send my way would be much appreciated. Hope you had a good holiday weekend. Thanks, Steve.

Monica