

MEMORANDUM

To: File(s) 34-2459 and 34-2460

From: Monica Van Bussum

Date: April 16, 2012

Re: Review of Applications to ^{Lease &} Rent Water Rights from the State Water Supply Bank

PURPOSE/NARRATIVE: On March 22, 2012, the Department received applications to lease all of 34-2459 and 34-2460 and rent the entirety of the rights. The application is not seeking to change the irrigated acreage, only add two additional PODs to the two most senior rights in the suite of rights appurtenant to these lands.

There is a long, complicated history for these water rights. I spoke with Carter Fritschle, IDWR Adjudication Section Manager, and Nick Spencer, Deputy Attorney General for IDWR, about the SRBA case for these water rights. Both agreed they are no longer at issue in the SRBA and the correct rights to use are the 2001 partial decrees.

After I determined the rights were no longer at issue, I spoke with James Cefalo, Water Resource Program Manager for IDWR's Eastern Regional Office, and Nick Miller, IDWR's Water Distribution Section Manager. Both agreed we should proceed with caution but that these rights had been looked at extensively in the SRBA.

So, here's the gist of what has gone on. For additional information, see Rob Harris's letter dated March 20, 2012. These water rights were originally only from the "Airport Wells." Over time, it appears the right holder also used water from the "Island Wells." The Island Wells were not claimed in the SRBA, but Rob Harris will soon (he tells me within the next week) file a transfer to include the Island Wells on the water rights. This lease/rental through the Bank will allow diversion from the Island Wells while the applicant pursues the transfer.

Upon further conversation with James, we agreed that IDWR has looked extensively at the impacts to the surrounding area from pumping the Island Wells (IDWR looked at this issue during SRBA review) and the impacts are remote at best. James agrees this can move forward without advertisement and the Bank transaction will allow the transfer proceeding to move forward more smoothly. IDWR suggested adding a condition requiring the transfer filing by April 30, 2012. I spoke with Rob Harris and he agreed to that condition.

AUTHORITY TO FILE: The application was signed by Rob Harris on behalf of his client.

WATER RIGHT VALIDITY: The water rights have been protected under the SRBA and have continued to be used.

INJURY TO OTHER WATER RIGHTS: In the SRBA, IDWR had the opportunity to review impacts to surrounding wells and concluded those impacts are remote at best. Additionally, Rob Harris on behalf of his client suggested further limiting conditions to reduce the risk of injury and enlargement (see Rob Harris's letter of March 20, 2012, for more information).

ENLARGEMENT OF USE: These two water rights overlap with other water rights, but the limiting conditions are unchanged, and the irrigated POU is unchanged, so the risk of enlargement is small. Additionally, Rob Harris on behalf of his client suggested further limiting conditions to reduce the risk of injury and enlargement (see Rob Harris's letter of March 20, 2012, for more information).

LOCAL PUBLIC INTEREST:

Review staff has no information to suggest this application is inconsistent with the local public interest. The transfer proceeding will help assess this issue also.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

The lease and rental appear consistent with conservation of water resources in Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

I spoke with Roger Totten, Watermaster for Water District 34, and he said he had no concerns but did want a scanned copy of the application, which I sent by email.