

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 6/17/2008

MODIFIED DATE = 11/21/2008
ASR A012 & folder - 82

RE: MC CONNEL ISLAND DITCH, TRANSFER NUMBER 73824

The transfer proposes to retire 7.6 acres of irrigation and change the nature of use of that water to storage. The water will be used to fill a 4 acre pond and 5 acre pond used for wildlife habitat. The point of diversion will not be changed. The lands being retired and replaced by the ponds are located on either side of the Ross East End Drain 7/10 of a mile east and 3/10 of a mile south of Hexon Road and Scott Pitt Road, more accurately described as T5N R6W S12 SWNE.

AUTHORITY TO FILE:

The applicant is the owner of record. The property is owned by Tom Moroney, who has filed two ground water permits for the same ponds. At the time the application was signed in 2006 Rick Ketterling was the president of the canal company.

WATER RIGHT VALIDITY:

This water right has been recommended to the Snake River Basin Adjudication (SRBA) court and no objections have been filed against that recommendation.

INJURY TO OTHER WATER RIGHTS:

The ponds have already been constructed, and this transfer and permits 63-32560 and 63-32561 have been filed to bring the water rights up to date. The ponds will cover the lands currently allowed to be irrigated by this water right, therefore it appears as though there is no change in the current delivery system. A complaint was filed earlier concerning the flooding out of a neighbor, but that appeared to be the result of a drain ditch that was removed. Apparently the drain ditch has been re-installed to avoid any future problems with the flooding of the neighbor's property. The neighbor will be sent a notice of this application to allow them to object if further issues arise.

ENLARGEMENT OF USE:

This water right was originally an irrigation right, and the same acres being retired are similar to the acres being used for the pond. The evaporation rate of the pond is greater than the amount of volume allowed to be delivered under this right. The permits were filed with additional volume requested to account for any evaporation above the amount allowed under this transfer. The ponds will generally be filled at the end of the irrigation season and allowed to remain full until the canal water has seeped and evaporated out of the ponds. The water remaining in the ponds during the summer months is the water contributed by the shallow ground water. The volume under the water right will be reduced to the amount of water evaporated or consumptively used, which is 27.4 acre feet.

modified memo 11/21/08

LOCAL PUBLIC INTEREST:

There is nothing to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

Applicant proposed beneficial use consistent with irrigation standards for the area.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of the application.

NARATIVE**CONDITIONS AND SUGGESTIONS**

The ponds under this transfer were the subject of a complaint in 2006 between the Tom Moroney and John and Ginger Breshears. The complaint stated that these ponds caused the lower portion of Breshears' property to flood. A field investigation revealed that the ponds were not the reason for the flooding. A drain ditch had been removed by Moroney during the construction of the ponds, which appeared to be the reason for the flooding of the property. Mr. Moroney was required to replace the pipeline, which I have been told is already done, and file these water rights for the pond. A comment letter will be sent to the Breshears during the advertising process to ensure they are aware of the water rights and protest them if they are still having flooding problems.

This water right was for 7.6 acres of irrigation. The consultant determined the amount of land this right covered was 9 acres, but he did not take into account conveyance losses and annual volume amounts when making his calculations. When the combined diversion rate of 27.73 is divided by the 1206 acres allowed to be irrigated, this allows a diversion rate per acre of 0.022993367 cfs. Any amount over the 0.02 cfs is to be considered conveyance loss. When the average rate per acre is divided into the 0.18 cfs for this right, it provides water for 7.8 acres. The combined volume limitation for these rights is 4569.8 acre feet of water for the 1206 acres. When you divide 1206 into 4569.8 you end up with a volume per acre of 3.789220564 acre feet per acre. When you divide volume allowed by this right of 28.8 by 3.789220564 you come up with a total acres allowed under this right of 7.6 acres. With the discrepancy in the diversion rate calculations and the volume calculation, it has been the policy of the Department to use the lesser of the two or 7.6 acres of irrigation for this right.

The maximum volume requirement for cut alfalfa at the Parma Experiment Station is 3.6 acre feet per acre. Therefore, the volume for this right should be reduced to 27.4 acre feet (7.6 acres X 3.6 afa = 27.36 afa).

The canal company chose to use this right, since it was very close to the amount of water needed for the evaporative losses of the ponds. There is 9 acres of surface area for these ponds, which includes the 7.8 acres of ground being retired under the water rights.

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Using the NOAA Technical Report NWS 33, Evaporation Atlas 1982, the pond surface area has a free water evaporation rate of 45 inches per acre or 3.75 acre feet per acre for this location. The ponds have 9 acres of surface area, which would require 33.75 acre feet of water for evaporation losses. This transfer will provide 27.36 acre feet of that water leaving 6.39 acre feet of evaporation to be covered. The two permit associated with this transfer have requested additional water to make up the 6.39 acre feet required for evaporation.

The applicant's plan is to fill the ponds at the end of the irrigation season to provide duck habitat and allow the ponds to sit until the end of the following irrigation season. Whereas the ponds will only be at the fullest level during the winter months, the full 33.75 acre feet of evaporation probably will not occur. The ponds will likely have a greatly reduced surface area during the middle of the summer or hottest part of the year, so the evaporation rate would be much less. This proposal seems reasonable.

There are no other significant overlapping water rights, so I can find nothing other than the possible protest by the Breshears that should prevent this application from being approved. This transfer seems acceptable as listed on the front page of the transfer with the inclusion of the conditions on the draft approval.