

MEMORANDUM

To: Water Right File No(s). 63-7610D, 63-32382, 63-32383 and 63-32384

Associated Rights: 63-2724B, 63-7610C, 63-32381

From: Monica Van Bussum

Date: February 25, 2011

Re: Review of Application to Lease a Water Right to the State Water Supply Bank

PURPOSE/NARRATIVE: On June 23, 2008, the Department received applications to lease all of the above-mentioned water rights to the Water Supply Bank. All the rights are for irrigation from ground water in Canyon County.

On the surface, this looks like a simple review since the applicants desire to place all of the respective water rights into the Bank. Upon further review, however, it gets more complicated because all of the water rights have a condition that all of the splits of 63-2724 and 63-7610 are limited to a flow rate of 3.90 cfs. The partially decreed flow rates add up to 4.66 cfs, well in excess of the limiting factor and with no real indication of how the flow rate breaks down per right.

Additionally, the quantity limiting condition for 3.90 cfs was partially decreed in the Explanatory category, not the Quantity where it should have been. Chris Bromley of the Attorney General's office sent correspondence in February 2011 asking the SRBA District Court to correct the partial decrees. On February 24, 2011, the SRBA District Court provided an order of amended partial decree for 63-2724B, 63-7610C, 63-32381, 63-32382, 63-32383 and 63-32384. I have corrected the data entry for those rights.

First, a short history of the pedigree for 63-2724 (1.9 cfs) and 63-7610 (3.9 cfs). 63-2724 was subsequently split into 63-2724A and 63-2724B. 63-2724A was split into 4 parts: 63-32381, 63-32382, 63-32383 and 63-32384. 63-7610 was split by transfer and in the SRBA into 63-7610A, 63-7610B, 63-7610C and 63-7610D. 63-7610A was split into two parts: 63-31395 and 63-31396.

For the narration below, it is important to remember 63-2724 was licensed for 1.9 cfs and 63-7610 was licensed for 3.9 cfs.

Transfer 69662 was approved in 2003 and two memos from Dan Nelson provide some particularly helpful information as to flow rate. The memos, from June 30, 2003, are attached.

In his memo to Jan Shurte of June 30, 2003, Dan said, "Water right 63-7610 is deceiving because only 2.00 cfs was developed with the drilling of a new well, however,

the well developed under 63-2724 was added onto the water right. Therefore, a condition was placed on the water right that when 63-2724 and 63-7610 are combined they would be limited to a maximum diversion rate of 3.90 cfs."

Later in that memo, Dan stated, "The number of times these two water rights have been split make monitoring...impossible." He recommended that each water right split of 63-7610 receive an individual diversion rate reflecting its proportion of the 2.0 cfs actually developed under 63-7610. It appears this did not happen in the SRBA, but provided me with enough information to determine how much flow rate to accept into the Bank.

First, the flow rates under 63-2724 were developed first at 1.9 cfs and should get their entire recommended flow rate leased to the Bank. No further calculations are needed.

Since 63-7610 was developed later and 2 cfs was developed, even though the license said 3.9 cfs, a proportional amount of each partially decreed flow rate should be accepted with a combined total of no more than 2 cfs. The recommendations for all splits of 63-7610 added up to 2.93 cfs, well above the 2 cfs that was actually developed. To ease future reviewers, I have included my calculations for all splits of 63-7610.

63-7610A (split into 63-31395 and 63-31396)

63-31395 was partially decreed for 1.8 cfs, which is 61.4% of 2.93 cfs. Therefore, 63-31395 should have 61.4% of the 2 cfs that was developed, which is 1.22 cfs.

63-31396 was partially decreed for 0.05 cfs, which is 1.7% of 2.93 cfs. Therefore, 63-31396 should have 1.7% of the 2 cfs that was developed, which is 0.04 cfs.

63-7610B

63-7610B was partially decreed for 0.10 cfs, which is 3.4% of 2.93 cfs. Therefore, 63-7610B should have 3.4% of 2 cfs, which is 0.07 cfs.

63-7610C

63-7610C was partially decreed for 0.39 cfs, which is 13.3% of 2.93 cfs. Therefore, 63-7610C should have 13.3% of the developed 2 cfs, which is 0.27 cfs.

63-7610D

63-7610D was partially decreed for 0.59 cfs, which is 20.1% of 2.93 cfs. Therefore, 63-7610D should have 20.1% of the developed 2 cfs, which is 0.40 cfs.

63-7610D is the candidate for lease to the Bank that is effected by these calculations. I recommend showing 0.59 cfs (the partially decreed flow rate) as being leased to the Bank but limiting rentals to 0.40 cfs. This is reflected in condition 13 of the lease acceptance.

AUTHORITY TO FILE: Bullock King was administratively dissolved on April 6, 2010. A representative for Bullock King did sign. JTAP is an existing LLC and Jeff Agenbroad is a registered agent. Jeff Agenbroad also signed the applications.

WATER RIGHT VALIDITY: 63-7610D was partially decreed in the SRBA in May 2008. 63-32382, 63-32383 and 63-32384 were partially decreed in the SRBA in February 2009.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

ENLARGEMENT OF USE: Proper rental review should protect against enlargement. It is important that 63-7610D is not rented for more than 0.40 cfs.

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 leases appear to be consistent with conservation of water resources in Idaho. The applicant/owner has been operating under an approved permit and a right licensed with the State of Idaho.

DEPARTMENT STAFF OR WATERMASTER COMMENTS:

None.