

MEMORANDUM

To: Water Right File No(s). 36-16154

From: Monica Van Bussum

Date: November 15, 2010

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

PURPOSE/NARRATIVE: On October 22, 2009, the Department received an application to lease part of 36-16154, to dry up 17.5 acres of ground and the associated diversion rate and volume.

AUTHORITY TO FILE: The original application is not in the file and I was unable to locate it. This application was received as part of a packet of applications on October 22, 2009, from Notch Butte, all signed by John Lezamiz, Managing Member of Notch Butte Farms. The original was signed by Lezamiz.

WATER RIGHT VALIDITY: Correspondence with watermaster Cindy Yenter indicates use in 2007 and 2009.

INJURY TO OTHER WATER RIGHTS: No injury is apparent.

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

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:
Watermaster comments in attached email.

Van Bussum, Monica

From: Yenter, Cindy
Sent: Monday, November 15, 2010 11:34 AM
To: Van Bussum, Monica
Subject: RE: Millenkamp app is back

Hey – you are on my list this morning. Here's my recommendations. Let me know if you have questions.

Millenkamp – the application looks ok, but I wonder about the total amount requested for comm/stock.. He already has water rights for 100 AF; in 2009 he diverted around 124 AF. Gary's saying he needs 161 AF MORE for c/s? Or just 161 AF TOTAL? There does appear to be a significant pou expansion in there, but perhaps that should be confirmed. The irrigation part is above existing rights for these wells and is required. Use the measurement conditions 212/213.

Wyatt 36-4042. No ground water diversions for many years, canal diversions only. 1995 comment in WMIS indicated the well was not in use. The GWD has not ever measured it. The IPCO records indicate a demand meter hookup for a 40 HP motor, and electrical demands 2006-2009 support only this. The AJ claim exam verified a 60HP motor on the deep well, and a 40 HP on the canal booster..... pretty much open and closed, no BU (but not necessarily a forfeiture issue, as the lands have remained irrigated). I recommend no lease.

Notch Butte 36-16154. This does not appear to be supplemental.. There are no NSCC canal shares listed here and gw diversions 2006-2008 would be reasonable for the licensed acreage. In fact 2007 diversions from the well shown were quite high, however the right has undergone a split at some point. 2009 diversions were less than 100 AF, although this acreage could be used for land applications from the feedyard to the north, or even from Double A Dairy to the east. That should not affect the primacy of the right for rental purposes, however I think the acres pursuant to the lease must remain totally dry.

Roth 36.16683 – is this still an application? There are no canal shares here – some held by Roth in SE Sec 2 but not west of the highway in this pou. There is a high likelihood that waste applications are occurring but again that's not a problem if the acres remain dry while leased. How many acres to be leased? The recent transfer pretty much pared down the authorized acres to what they were irrigating. The overlapping right from the same wells are separate acres which do not cause a conflict .

From: Van Bussum, Monica
Sent: Friday, November 12, 2010 4:53 PM
To: Yenter, Cindy
Subject: RE: Millenkamp app is back

Here is a scan of the Millenkamp app. I am looking at filling it from 36-16683 and maybe one of the Notch Butte lease apps (currently looking at 36-16154) as a candidate, but I'm worried that one might be supplemental. Anyway, I do need your comments on leasing 36-16154 to the Bank, too. Let me know what you think about both. Thanks!

Monica

From: Yenter, Cindy
Sent: Thursday, September 30, 2010 12:52 PM
To: Van Bussum, Monica
Subject: RE: Millenkamp app is back

Why don't you send me a copy for review, once you determine you have an eligible right for rental. I'll need to see which wells they have identified. All things being appropriate, this should satisfy the immediate violation he has going.

From: Van Bussum, Monica
Sent: Thursday, September 30, 2010 12:49 PM
To: Yenter, Cindy
Subject: RE: Millenkamp app is back

The rental period is 5 years and we would start it for 2010. Rental would end in 2014.

From: Yenter, Cindy
Sent: Thursday, September 30, 2010 12:48 PM
To: Van Bussum, Monica
Subject: RE: Millenkamp app is back

This is consistent with the final results of a transfer they are contemplating. The 3 acres is for a berm around the facility. How long is the proposed rental period? Rental beginning when?

From: Van Bussum, Monica
Sent: Thursday, September 30, 2010 11:35 AM
To: Yenter, Cindy
Subject: Millenkamp app is back

Hi Cindy,

Gary Funderburg refilled for Millenkamp. It's a rental application seeking the following:

0.66 cfs/161 AF for commercial/stock Jan 1 to Dec 31
0.66 cfs/12 AF for irrigation April 1 to Nov 1

Irrigation of 3 acres in 7S 16E Sec 27 and 28. Cow/calf operation in Sections 27 and 28.

Do you want more details? What are your thoughts? Thanks!

Monica