

MEMORANDUM

TO: Monica Van Bussum
FROM: Brian Ragan
DATE: August 27, 2010
SUBJECT: Frank Suchan Water Supply Bank Lease Application (36-7828)

SUMMARY

On February 26, 2008, The Department received an application from Frank Suchan to lease a portion of water right no. 36-7828 in the amount of 13.4 acres to the Water Supply Bank (WSB) for a one year period between 1/1/2008 and 12/31/2008. A request, submitted by Frank Suchan, to extend the lease period for this water right for an additional two years was received by the Department on January 15, 2009. The end date of this lease would then be December 31, 2010.

The source and beneficial use of this water right is listed as "ground water" and "irrigation".

A total of 156 acres is covered by 36-7828 and enlargement right 36-7839. Of the total 156 acres:

- 13.4 acres are being offered to the WSB
 - 10.4 acres on rock outcroppings and 3 acres on homestead and granaries
- 101.7 acres were accepted into the Conservation Reserve Enhancement Program (CREP) as detailed in the Agreement Not To Divert (ANTD) signed on September 26, 2007
 - 61.7 acres from 36-7828 and all 40 acres from 36-7839
- 40.9 acres will continue to be irrigated

Of the 13.4 acres offered to the WSB, 10.4 acres are under rock outcroppings and are not eligible for CREP nor are they protected under the ANTD. Technically they should not be accepted into the WSB because they do not represent a stand-alone beneficial use. However, the recommendation by the Watermaster of District 130 states that these 10.4 acres should be accepted into the WSB and conditioned to state they are not available for rental. The Watermaster indicates this has been done in the past.

AUTHORITY TO FILE

The signatory, Frank Suchan, is listed as the current owner of the property and water rights for the land affected by this lease application.

ABANDONMENT

As per the Watermaster of District 130, and verified by the reviewer, 3 acres in the NENW Section 35 have been idled since approximately 2001. A home was built on one acre and granaries were constructed on two other acres. The Watermaster recommends these 3 acres be forfeited and not accepted for lease.

After the Decree for 36-7828 was issued in 2002, infrared satellite imagery shows that the balance of 10.4 acres offered to the WSB are within land irrigated during the season in years 2003-07. The acreage containing the 10.4 acres being offered to the bank was accepted into the CREP and therefore not

irrigated during the 2008-09 season. If these 10.4 acres are accepted into the WSB retroactively, as per the notes from Shelley Keen written on March 18, 2010 detailing internal IDWR decisions regarding forfeiture, they have no forfeiture years accrued. If these 10.4 acres are not accepted into the WSB the forfeiture clock started in 2008 and 3 forfeiture years have accrued.

STATE WATER PLAN

Acquisition of this right will be within the State Water Plan.

LOCAL PUBLIC INTEREST

This lease is in the local public interest.

PROBABILITY OF RENTAL

The probability of rental is zero. The lease agreement will have to be conditioned to state that these acres cannot be rented because these acres under rock outcrops do not represent a stand-alone beneficial use.

LEASE PERIOD

The lease period would be from January 1, 2008 through December 31, 2010.

RECOMMENDATION

The existing duty is calculated by: $3.12 \text{ cfs} / 156 \text{ acres} = 0.02 \text{ cfs/acre}$

The rate offered to the WSB is calculated by: $10.4 \text{ acres} \times 0.02 \text{ cfs/acre} = 0.21 \text{ cfs}$

The annual volume offered to the WSB is calculated by: $10.4 \text{ acres} \times 4 \text{ af-ac/year} = 41.6 \text{ af-year}$

This lease application should be approved and described as follows:

Acres: 10.4

Diversion Rate: 0.21 cfs

Annual Volume: 41.6 af/year

Season of Use: 4/1 to 10/31

Lease End Date: December 31, 2010

Condition: This portion should not be rented because they do not represent a stand-alone beneficial use.