

MEMO TO FILE

DATE October 7, 2010
TO PROTESTED APPLICATION FOR TRANSFER FILE # 74727
[WR# 65-3803B]
FROM VICKY MUSIC
RE PRE HEARING CONFERENCE HELD October 7, 2010

I conducted the prehearing conference today and this will not proceed to a hearing. The following people attended the prehearing: Randy Heffner, the applicant; Linda Whitlock and Kathy Swenson, sisters who own Aldape Ranch; and Wayne Swenson, Kathy's husband.

Issues

One of the issues for the protestants are that the applicant was not a good neighbor by not working with them first to acquire a POD on the ranch property. Their main issue is that the proposed POD is .25 mile into the ranch property at a place where there is significant ranch activity, such as cattle crossing, farm equipment, and there is the potential for ongoing damage to their property from the major construction required to build the diversion structure and maintenance thereafter. They do not want to spend any money for a private agreement or easement to be drafted by attorneys.

Settlement discussions

I told them that the Departments position was that we had given the applicant plenty of time to work out access with the protestants and he had not made any attempt to talk to them. Also, the application was deficient because the applicant did not answer the question re who owns the property at the point of diversion. It is a 2 part question and if the applicant does not own the property, it asks for the arrangement that will allow the work to be done on property not owned by the applicant. It was the only item not answered on that page. So, IDWR is ready to reject the application.

The applicant acknowledged that he could relocate a POD on his property but would have to spend more money to compensate for the lesser elevation change and psi.

The protestants wanted to talk privately, which they did, and then they talked with the applicant privately. The parties could not come to an agreement and conveyed to me that settlement was not possible.

The applicant said that he wanted to withdraw his application because he was not far enough alone in capitalizing the project or designing it so would not be able to commence work within 1 year of the transfer approval, and he was not sure if he would do the project at all.

Conclusions

I set a deadline of October 15, 2010 by which the transfer would be withdrawn, and said I would send a letter to the parties stating the conclusion of the prehearing conference.

10/7/10 Preliminary Trx # 74727
(WR# 65-3803B)

introduction:

Randy H.
Kathy Swenson all Aspire Randy.
Wally Swenson
Linda Whit

Applicant:

1. try to Φ efficiency. 6-He uses same Hill. (ATH, small irrigation)
2. has not contacted protesters - wrong
3. has to raise Φ & , engineering
4. holds corp. approval
5. talked to TC (lease) re changing POD's - OK.
+ 1000' pipe

Protestant

Linda

1. accept apology but no knowledge until she saw it in paper.
2. Questions! she didn't understand process, or what app. wants. no add H₂O applied for.
3. concern: on their property, can flood, degree of construction, lower / downstream users: wildlife reserve. Has not irrigated for 1000' now.

Linda (cont)

she asks how long it has been unused. she says 40 years.

Floodings, they are not using all of their Q. Y4 will up on their property.

Wayne

in area since 1980s - likely to have to have headgate, latracks, have to build dam (yes), will have to be large size. Concerned about size.

Discussion (APP 18" pipe from stream, then 15" pipe.) design not done. Considered in stream system.) Doesn't plan to affect downstream needs. May be eligible for Fed grant. Concrete diversion back up plan. Still in work, best is buried.

VLM

no engineering plans for dam design was done elevations, ~~per~~ feet per second.

loss 15-20 psi - would have to have pumping station.

Water available in Hill?

Linda - they run cattle there - another concern truck crosses rt. at proposed POD (tractors, cattle, etc...)

App: would run pipe north side of creek.

LMH: used to the north side - possible, is concerned that won't be maintained.

Settlement?

Wayne - ① on Randy's side re time ② cannot make decisions w/o looking @ property - proposed POD

owners
of
ranch

Linda - ① Randy had plenty of time ② hasn't used water ③ concerned about allowing access & damage ④ he has a back up plan ⑤ willing to look at it but will not allow access. ⑥ still has w/r. ⑦ will cost here & lawyers.

Kathy - ① app didn't go about it right way ② no benefit to ranch - more cons than pros ③ major project - potential to do much damage: construction.

Resolution

no settlement

wants to withdraw transfer app. - 10/15/10 for deadline app to w/d applicant.

VLM