

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, July 14, 2010 10:00 AM
To: 'Jim Speck'
Subject: RE: Old Cutters, Inc./Dry Lot, LLC - Application for Permit 37-22252

Jim,

I appreciate your client's sense of urgency. However, IDWR wants to be sure the permit can be properly administered when it is issued. The appropriation authorized by the permit, if it is ultimately issued, will be mitigated by the ground water recharge project authorized in the proposed transfer of water rights 37-22313, 37-22318, and 37-22323. As proposed, Permit 37-22252 carries the condition:

The annual volume of water diverted under this right shall not exceed the annual volume of water delivered into the infiltration basin(s) for ground water recharge under rights 37-22313, 37-22318, and 37-22323 as measured at the point(s) of recharge.

To verify compliance with this requirement, IDWR wants to be able to compare recharge amounts with usage amounts. Measurement of the amount of water committed to recharge appears to be straightforward. Measurement of the amount of water used for irrigation under the proposed permit is proving problematic because there is no convenient, inexpensive way to differentiate it from the water used for domestic purposes in connection with Permits 37-8613A and 37-8810. With this complication in mind, IDWR suggested measuring the total volume diverted from the two points of diversion and subtracting the estimated domestic use, based on the number of current domestic connections, to arrive at an estimated volume used in connection with 37-22252. The estimated volume could then be compared to the number of irrigated acres reported in connection with proposed condition 9.b as a cross-check for this method of estimation. This alternative seems far less expensive than requiring separate distribution lines for the water delivered pursuant to 37-22252. As for whether Dry Lot LLC would possess information about the number of domestic connections to the system, it seems to IDWR that entities agreeing to share wells and distribution lines could also agree to share information about the number of connections.

If there is another way, IDWR is certainly open to other ideas for accomplishing the same objective.

The need for an accurate measurement or estimation of annual volume is not the only remaining issue. I learned yesterday afternoon that Travis Thompson emailed Aaron Marshall about another proposed condition, which I'm not sure I completely understand. This morning I emailed Travis Thompson and asked him to call me when he returns from vacation next week.

Sincerely,

Shelley Keen
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-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]

Sent: Tuesday, July 13, 2010 5:34 PM

To: Keen, Shelley

Cc: 'John Campbell'; 'Steve Brown'

Subject: Re: Old Cutters, Inc./Dry Lot, LLC - Application for Permit 37-22252

Shelley,

I now understand the single remaining issue is your request that Dry Lot, LLC report to IDWR annually the lots in the Valley Club Subdivision that are hooked up to the subdivision's domestic water system. As you know, I represent the seller of the water rights that are the subject of the related application for transfer no. 74449. The purchase and sale agreement was signed in May 2007 and these applications originally filed in August 2007. Granted, they were contested and complex applications. However, this new requirement is just that, brand new since the previous approval was issued in February. Moreover, the current applicant, to the best of my knowledge, is owned by some, but certainly not all, of the Valley Club Subdivision home and lot owners. Therefore, they do not have the information requested.

In these economic times the closing of the sale of these water rights is extremely important to my client. That event is now being held up by a completely arbitrary proposed condition that attempts to get information about delivery and use of water rights belonging to another entity that IDWR should have requested as a condition of approval of the licenses for those water rights.

I ask you to eliminate proposed condition 9.C and issue the revised permit and transfer immediately. Please call me right away if you are not willing to do so.

Thank you.

Jim

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