

MEMORANDUM

Date: December 23, 2009
To: Transfer 75670
From: jstanton
Re: Comment/Analysis

This application proposes to correct the recorded place of use to show how this right has been used since sprinklers were installed on the property in 1994 by a previous owner. The problem turned up in a water-right review by Water District 130 that showed land being irrigated without a water right; the application was filed in response to letter from Cindy Yenter to the applicant. Bob (Meyers) was not aware of this problem, but came in to fix it as soon as he could after receiving the letter. Bob understands that both the place of use and annual volume will be reduced if the transfer is approved.

Parallel Processing Required: Yes

Advertising Required: No due to no physical change in water system from what is currently there.

Authority To File: The applicants are the owners of record, so this is not an issue. A statement signed by the previous owner at the time of purchase by the applicants makes it clear that he intended to sell all of this water right to them, even though they did not purchase all the licensed place of use. Per Pam, a copy of the approved transfer should be sent to the previous owners of this right, as they still own some of the land covered by the original water right.

Water Right Validity: The current system has been in place since 1994, while the right was decreed in 2002. Forfeiture is an issue, as the current system irrigates fewer acres than what the decree allows; less annual volume can be allowed for the reduced acres.

Injury To Other Rights: By reducing the place of use, less ground water will be pumped from the ESPA than what is allowed under the SRBA decree.

Enlargement of Use: Some land now irrigated with this well was either not irrigated or was irrigated with canal shares in 1987, so putting this land under the system would constitute an expansion. But land north of the irrigation canal that were formerly irrigated with this well are now irrigated only with canal shares. Some land between the pivot and the canal is now also irrigated just with canal shares (Bob got 20 shares with the property). While the number of acres irrigated has increased on the decreed tracts, the number of acres irrigated with ground water has decreased. The applicant has provided a written statement from the son of the former owner stating that well water and canal water were originally co-mingled for use on the decreed place of use, and NSCC has confirmed that there were about 125 shares of water on this farm before the sale. The shares not sold to Meyers are now appurtenant to the Andrus land north of the canal in Sec. 8. There were 98.5 inches of groundwater on this farm, and at least 78 inches of canal water (at 5/8 inch per share), so both sources could be considered primary; either source could irrigate the farm properly on its own.

Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified. Land is sprinkled for maximum efficiency of water use.

Review of the application finds that there is no clear inconsistency with criteria set forth in Sec. 42-222 I. C. preventing processing. At least prior to advertising, no other issues have been identified that would require further review or submittal of additional data by the applicant.

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