

MEMORANDUM

TO: Water Right Files 27-2124
FROM: Aaron Marshall
DATE: June 22, 2010
SUBJECT: P4 Production LLC Water Supply Bank Rental Application

SUMMARY

On February 22, 2010, IDWR received an application to rent water from the Water Supply Bank from P4 Production LLC ("P4"). Randall C. Budge, attorney for P4, signed the application. The applicant proposes to use 94 acre-feet of water per year for mining purposes for a 2 year period.

The source of water listed on the first page of the application is described as the Blackfoot River. However, the narrative attached to the application explains that ground water, tributary to the Blackfoot River, and surface water runoff will be captured, diverted, and used for mining purposes and dust suppression or otherwise evaporated. It is anticipated, based on the attached narrative, that the use of rented water will be 100% consumptive.

The place of use is also known as the South Rasmussen Mine.

SUFFICIENCY OF SUPPLY

Water right no. 27-2124 was accepted into the Water Supply Bank, in its entirety, for an indefinite period, effective March 31, 2003. Renting this right satisfies the "first in, first out" rule. Infrared satellite imagery indicates this right has remained unused during the lease period, through the 2009 irrigation season.

Water right no. 27-2124 authorizes the use of water for irrigation of 318 acres and is limited to a diversion rate of 4.38 cfs and 954 acre-feet per year ($954 / 318 = 3$ acre-feet per acre). The standard consumptive irrigation requirement in this area is 2.5 acre-feet per acre. Since the use of water described by P4 is expected to be 100% consumptive, P4 must rent an amount of water under this right equivalent to 37.6 acres ($94 \text{ acre-feet} / 2.5 \text{ acre-feet per acre}$). Based on the volume of water per acre allocated under this right, P4 must rent a total of 112.8 acre-feet ($37.6 \text{ acres} \times 3 \text{ acre-feet per acre}$) of water but will be limited to the diversion and use of 94 acre-feet.

The cost associated with the rental is \$1,579.20 per year ($\$14 \text{ per acre-foot} \times 112.8 \text{ acre-feet}$). P4 submitted a payment of \$1,316.00 along with the application. An additional \$263.20 is necessary for the 2010 rental fee.

INJURY

Information available to IDWR does not indicate that other water rights will be injured by the rental.

ENLARGEMENT

Will the rental enlarge the use of water under the rented right(s)? No, if conditioned appropriately.

Are any terms or conditions necessary to ensure there is no enlargement? Yes. P4 must rent and pay for 112.8 acre-feet of water but will be limited to the diversion and use of 94 acre-feet of water.

BENEFICIAL USE

The use of water for mining purposes, including dust suppression associated with the mining operation, is a recognized beneficial use of water.

LOCAL PUBLIC INTEREST

Is the proposed rental in the local public interest? Yes. P4 allegedly violated the Clean Water Act by allowing contaminated runoff water from the mine to pollute the Blackfoot River watershed. The use proposed by this rental will allow P4 to manage mine runoff and comply with EPA requirements and the Clean Water Act.

WATER DISTRICT

Is the proposed rental in a water district? No. The source of water for this rental is ground water tributary to the Blackfoot River. The water resources in this area are not conjunctively managed. However, considering the attention garnered by P4 at this location, it may be prudent to copy the Blackfoot River watermaster with correspondence associated with the rental.

RECOMMENDATION

The rental may be approved, as described below:

Water Right No. 27-2124

Diversion Rate: 0.52 cfs ((4.38 cfs / 318 acres) x 37.6 acres)

Volume: 112.8 acre-feet, limited to a maximum annual diversion volume of 94 acre-feet

Rental Fee: \$1,579.20 per year

Season of Use: 01/01 to 12/31

Rental Period: January 1, 2010 to December 31, 2010 and January 1, 2011 to December 31, 2011