

MEMORANDUM

Date: May 21, 2010
To: Transfer 76323
From: jstanton
Re: Comment/Analysis

This application splits the irrigation rights on this property to facilitate an ownership change, and describes how the land has been irrigated for at least the last 5 years. Some acres are recommended for forfeiture due to the lack of irrigation during this period. The application should be approvable with standard conditions.

There was an overlap between the two senior water rights, whereby the middle right covered some land already covered by the senior right. The overlapping acres had full volume under both of these rights, giving that land 8.0 afa/acre. This is plain stupid, so I did away with this situation by reducing the acreage limit and volume under the middle right (43-2375A = 43-13673 & 13674). Now all the parameters for all 6 rights (after the splits) are just additive, with no overlapping conditions needed.

The north half of the pivot east of the half pivot owned by Midway Dairy has dairy rights appurtenant to it under the 2002 transfer, and additional dairy facilities could still be built there in the future. But the land will continue to be irrigated for some time. This should not prevent the approval of this transfer, and I am not proposing any additional conditions to cover this overlap.

Lienholder Letter Required: Yes

Received Date: 5-21-10

Parallel Processing Required: No

Advertising Required: No per Allen (no hydrologic impact).

Authority To File: The applicants have provided warranty deeds verifying their ownership. I have reviewed the deeds, and they appear to be in order. The partners in ADT bought the entire place of use, then sold a portion to Miday Dairy. Then the partners sold the remaining land to themselves as ADT Farms. The same actual people are involved with both entities.

Water Right Validity: The rights were decreed in June of 2002, so forfeiture must be considered. I found about 60 acres of forfeiture outside the existing pivots, and have discussed with the applicants. The rights were split in Workflow as decreed, and the forfeiture analysis was applied to each set of rights.

Injury To Other Rights: There should be none with proper conditions.

Enlargement of Use: None requested. Due to forfeiture, the pou will decrease.

Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified.

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.