

Comment Report

Application ID 66920

1. jstanton 5/23/2008 10:34:27 AM Special Administration Area Notes

Comment: Special Administration Areas : North Snake GW District

Exempt: N

Reason:

Doc Attached:

Explanation:

Special Administration Areas : Eastern Snake Plain Aquifer

Exempt: N

Reason:

Doc Attached:

Explanation:

2. jstanton 5/23/2008 Comment/Analysis

Comment: This application was filed in 1998. I conducted a site inspection then, and spoke with an employee of Box Canyon Dairy; see file memo. The application was then protested, and has been languishing ever since. The protest was recently withdrawn, and Allen gave me the file to complete all the computer work that was never originally done or required at that time.

Authority To File: The applicant is the owner of record, so this is not an issue. The applicant does not own the decreed pou in Sec. 22, but has a quitclaim deed from the owner of that land giving their interest in the groundwater right to the applicant. While BCD is the only party listed on the original application, I added the other owners per the SRBA decree issued in 2001. As far as I know, there was no intent to change ownership via this transfer.

Water Right Validity: These rights were decreed in November of 2001, so forfeiture for non-use must be considered in reviewing this application. Based on information supplied by the applicant in 1998, and on my site visit to the recorded place of use then, I conclude that Right 36-2535 has not been used in Sec. 22 for more than 5 consecutive years and has therefore been forfeited on this land. The same applies to the SW/SW Sec. 15, as this tract has been a dairy since at least 2003. So it appears that this right has not been used on any of the land proposed to be dried up for the last 5 years or more; forfeiture of this portion of the right has occurred, and the transfer cannot be approved as filed. Jeff, thru Pam, said that filing the transfer did not protect the right from forfeiture, so we need to look at the historic use since then (which is what I have done). Irrigating land under the pivot in Sec. 25 does not protect acres from forfeiture due to the small volume used in the last 5 years, but having the land there in an approved mitigation plan could change this. Scott Haag told me that the well in Sec. 15 waters the small pivot north of the feedlot (38.7 ac including 2 corners

well in Sec. 15 waters the small pivot north of the feedlot (38.7 ac including 2 corners east of the pivot) and a small strip of land west of the home (about 0.6 acres); canal water is now used elsewhere. So I am recommending that this right be reduced accordingly to 0.02 cfs/ac & 4.0 afa/ac for the remaining acres; it will become an associated right to facilitate these changes. I also recommend that the condition regarding the use of canal shares on the remaining land be removed; this right can now be considered as a primary right for future transfers.

Injury To Other Rights: The existing pod in Sec. 15 is in Row 46 Col 13 in the Snake River model, while the pod in Sec. 25 is in Row 48 Col 14. These are non-adjacent cells, so injury to surface users could occur without proper mitigation. Due to the forfeiture issue, I have not run the model to determine if the impact would be significant enough to require mitigation. The Sec. 25 well is about 1 1/2 miles SE of the Sec. 15 well, so it would appear that any impacts of the change would be minimal. No mitigation plan is proposed in the transfer.

Enlargement of Use: The well in Sec. 25 pumped between 145 and 210 af until 2002, when usage dropped to 10 afa or less. This well is therefore supplemental to canal shares and probably dairy wastewater, as it is located just north of the lagoons for the main Box Canyon Dairy facility. The well is tied into a 72-acre pivot. So while the place of use has increased from the original 25 acres, the annual volume is much less than the 100 afa allowed. Property-manager Scott Haag told me that the gw right is Sec. 25 has been in a mitigation plan thru the North Snake GW District until this year, with canal water & dairy wastewater being used in the pivot. The gw right has now been removed from the plan, and will again become the primary water source; surface water will be used elsewhere under their nutrient-management plan. It makes more sense to reconfigure the transfer to just involve Right 36-4117 to create a ppu for this pivot, but Pam said that we could not allow this since the pivot would irrigate more than 25 acres even with only 10 afa (it would probably go around at least once). Allen said that we could do this, and need to do something with this right in order to have authority to reduce 2535 due to forfeiture. I am going with what Allen said, and those two can argue if they want to.

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.

3. jstanton 6/8/2009 3:44:39 PM Additional Information Notes
Comment: Reviewed by Adjudication Staff: N/A
Mitigation Plan or acceptance form: N/A

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Municipal Rights Anticipated Horizon Information: N/A