

Comment Report

Application ID 70893

1. jstanton 12/9/2003 4:39:15 PM Special Administration Area Notes

Comment: Special Administration Areas : None

Exempt:

Reason:

Doc Attached:

Explanation:

2. jstanton 12/9/2003 4:40:18 PM Additional Information Notes

Comment: Reviewed by Adjudication Staff: Request

Mitigation Plan or acceptance form: N/A

Municipal Rights Anticipated Horizon Information: N/A

3. jstanton 1/28/2004 Comment/Analysis

Comment: I am familiar with both the existing and new place of use of this right, as I have visited both sites while conducting licensing exams. Bob Meyers came into my office today in response to the 30-day letter I sent out recently requesting additional information on this proposal. He said that the existing ditch will need to be widened in some spots, and that a larger culvert will be needed across the county road (he has discussed this with the Highway Dept., and they did not see a problem. He also told me that this water is very silty during the summer, so he plans to construct a settling pond where the ditch enters his property in order to improve the water quality to his recreational ponds. Due to the uneven nature of the property, he has not yet been able to design the new ponds or to locate them exactly; the application describes all the tracts where the ponds might be built. He hopes to move some large rocks out of the way, but may end up excavating around them. So he cannot provide exact pond volumes at this time. Bob said that the commercial facility is presently unused, presumably due to the terrible economic conditions in the commercial trout market. He did not know if the pond volume would be reduced at the fish hatchery, or if they would just get by on less water. While the use is being changed to recreation to more-accurately describe the new use, wildlife will obviously hang around these ponds also.

With regard to the existing pod for this right, it appears from ArcView that the pod is actually just inside the NE/SW/NE Sec. 14 (assuming the township is rectified correctly, which has not yet been tested). The SRBA might want to GPS this point when doing their recommendation. I marked it where it appears to be on the ArcView map, but do not plan to verify this since it is for the untransferred part of the right. There is already a generic point in the middle of the qqq in the claim pod layer, but that is downstream from the pou.

Authority To File: The applicants have purchased the proposed pou and water from

Authority To File: The applicants have purchased the proposed pond and water from the owner of record, and this is documented in the file. The land was divided into 6 separate pieces before the applicants bought it, and he provided deeds for the 5 pieces north of the county road where the ponds will be built.

Water Right Validity: This right has been claimed in the SRBA, so forfeiture is not an issue.

Injury To Other Rights: Even with less water diverted through the existing commercial fish ponds, the surface area there will probably not change by an appreciable amount. Depending on how big the new recreational ponds are, they could represent some additional water loss through seepage & evaporation. This would be insignificant in relation to the flow of the Snake River, as this water will end up there with or without this transfer. No local users will be affected by this transfer except for Mr. Millard (owner of the fish hatchery), and he has already agreed to the change by selling the water to Meyers. To make sure there is no injury, we could require that the ponds be lined to prevent seepage losses, and that measuring devices be required at the pond & at the end of the last pond.

Enlargement of Use: The overall pond/raceway surface area will probably increase if this transfer is approved, but this has been deemed as not an element of water rights of this type. So this does not appear to be an issue. Meyers finally provided a plan for the new ponds in May of 2009; there will be three 30 ft x 50 ft ponds. He did not provide depth data, so I presumed a reasonable depth of 4 feet on average. The rocky ground in this area could very well limit actual construction depth.

Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: The applicant is required to provide justification for the requested flow rate. If he cannot do this, the right will be subordinated to non-recreation uses developed after the approval date of the transfer.

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

4. jstanton 4/1/2004 Legal Notice Remarks

Comment: This application proposes to change the nature of use for 5 cfs from Cedar Draw Creek from commercial fish propagation to recreation. Three dirt ponds will be dug or built about 1/2 mile NE of the existing fish farm. Instead of returning to Cedar Draw Creek and then running NW into the Snake River, this water will now enter the Snake River about 1 1/4 miles upstream from Cedar Draw Creek. An existing irrigation ditch will carry this water to the new ponds. The ponds will be located just south of the Snake River about 1 3/4 miles west and 5 1/4 miles north of Filer.

5. ameritt 7/31/2006 source

Comment: Changed source to Cedar Draw from Cedar Draw Creek to conform with standard USGS description.