

MEMORANDUM

TO: FILE
FROM: DANIEL A. NELSON
DATE: 10/31/2003

RE: BRACKETT RANCHES LTD TRANSFER # 70890, RIGHT 51-12895A

The transfer proposes to include stockwater troughs to the system described by this right that were developed after 1987 that could not be included in the Snake River Basin Adjudication (SRBA). This transfer was required through a stipulation agreement with the Bureau of Land Management (BLM) and the Juniper Butte Range Withdrawal Act Agreement.

AUTHORITY TO FILE:

The applicant is the same name listed on the SRBA decree for this water right. The general partner, Bert Brackett, signed the application. Therefore, ownership to file this transfer has been proven. The SRBA stipulation agreement grants the applicant the right to add these places of use by BLM who own the ground where the new troughs are located except for the troughs in T13S R10E S9. The troughs in section 9 are allowed through the Juniper Butte Range Withdrawal Act Agreement. A copy of the Juniper Butte agreement can be found in permit 51-12983.

WATER RIGHT VALIDITY:

This water right was decreed in the SRBA on 3/14/2003. Therefore, Validity of the right should not be at issue.

INJURY TO OTHER WATER RIGHTS:

This right has been in use for several years. The new place of use has also been in place for sometime without known injury to other water users. This application is a result of an agreement between the BLM, the US Air Force, and the applicant to settle a dispute of this right. This application should settle any disputes and possible injury to BLM, US Air Force, and the applicant.

ENLARGEMENT OF USE:

This system has been in place for a number of years. The system was designed to accommodate 1,000 head of cattle within a very large grazing allotment. The applicant will not be allowed under Federal regulations to graze more than the 1,000 head of cattle with this system serves. The additional troughs are simply to allow the applicant to move the 1,000 head of cattle throughout his grazing allotment more efficiently and to provide better rangeland management of the allotment. The amount of water consumed will not change from the original decreed amount.

LOCAL PUBLIC INTEREST:

This ranch and water system has been in use for a number of years. Our office has no information to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

This ranch and water system proposes beneficial use consistent with conservation of water resources in Idaho and has been operating using licensed water rights with the State of Idaho.

Review of the application finds there is no clear inconsistency with criteria of I.C. § 42-222 preventing processing of the application.

NARATIVE

Please see attachment A, which is the stipulation agreement between the BLM and the applicant requiring this transfer. The troughs located in T13S R10E S9 NENW and SESE were allowed through an agreement with the US Airforce. Please see the Juniper Butte agreement in water right 51-12983. The shape file was created from the legal descriptions supplied by the applicant. Exact locations of some of the troughs were collected by the BLM with a Global Satellite Positioning (GPS) system. However, these files do not include all of the water troughs, and it would be difficult to pin point each trough without knowing the background data used to compile the GPS points. Therefore, it was determined that it would be more efficient to mark the 40-acre tract where each trough is located to avoid future confusion.

There are no overlapping water rights for the place of use. Water rights 51-12898A, 51-12896A, 51-12897A, 51-12957, and 51-12983 all use the same spring, pump, and pipeline system. The Brackett family developed this system, and each of the rights listed above is for a different family member or group of family members.

Mr. Brackett states that the capacity of the system is 0.23 cfs, so when combined all of these rights should be limited to 0.023 cfs. There are no other water rights using Pence Springs as a water source. All of the rights listed above also use another water source that is located in the State of Nevada. It was determined in the SRBA that this source could not be included in a State of Idaho water right.

CONDITIONS AND SUGGESTIONS

This transfer seems acceptable as listed on the front page of the transfer with the inclusion of the conditions on the draft approval.