

M E M O R A N D U M

Date: March 16, 2009
To: Transfer 75406
From: jstanton
Re: Comment/Analysis

This application basically recombines 2 groundwater rights that were previously split under an ownership change. Loughmiller Farms owned the land and water rights, but sold only a portion of the land to Mr. Curtis as described in the warranty deed. The agreement of sale specifies that all of both rights was being sold, but this did not carry over into the deed. The rights were therefore split, with Loughmiller retaining partial ownership. The transfer seeks to have all of both original rights in the name of Curtis, and appurtenant to the land that they currently irrigate with these wells. The rights are supplemental to surface rights. Loughmiller has since sold his land for gravel pits; it is no longer irrigated, and the applicants have been using the full output of the wells for irrigation. This is a pretty simple transfer that just catches up with what the applicants have been doing since they bought the property several years ago, so there does not appear to be any need for parallel processing or advertising. The transfer should be approvable with standard conditions and proper ownership documentation.

Authority To File: I told Mr. Curtis that he needed a quitclaim deed or similar document from the CURRENT owners of the former Loughmiller property for the Loughmiller rights, as the Agreement of Sale is not sufficient per Pam.

On 3-23-09, Mr. Curtis provided a quitclaim deed from the right holder of record for the rights not already owned by the applicants. They also provided a signed statement from the current owner of a portion of the land covered by these rights stating that they received no water rights with the property. Taxlot data in ArcMap shows that the owner of record (Loughmiller) still owns the rest of the land, so this appears to be in order. Authority to file does not appear to be an issue based on these documents.

Water Right Validity: These rights have not yet been decreed in the SRBA, so forfeiture is not an issue.

Injury To Other Rights: There should be none.

Enlargement of Use: Although the proposed ppu is larger than the number of acres allowed under these rights, the wells are supplemental to surface rights. Groundwater is only used as needed. A totalizing flow meter can be required to verify usage if needed, but this area will probably never be under watermaster control; at least I have never heard any mention of doing so.

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.