

TO: FILE
FROM: DANIEL A. NELSON
DATE: 6/17/2008

RE: MC CONNEL ISLAND DITCH, TRANSFER NUMBER 73824

The transfer proposes to retire 9 acres of irrigation and change the nature of use of that water to storage. The water will be used to fill a 4 acre pond and a 5 acre pond used for wildlife habitat. The point of diversion will not be changed. The lands being retired and replaced by the ponds are located on either side of the Ross East End Drain 7/10 of a mile east and 3/10 of a mile south of Hexon Road and Scott Pitt Road, more accurately described as T5N R6W S12 SWNE.

AUTHORITY TO FILE:

The applicant is the owner of record. The property is owned by Tom Moroney, who has filed two ground water permits for the same ponds. At the time the application was signed in 2006 Rick Ketterling was the president of the canal company.

WATER RIGHT VALIDITY:

This water right has been recommended to the Snake River Basin Adjudication (SRBA) court and no objections have been filed against that recommendation.

INJURY TO OTHER WATER RIGHTS:

The ponds have already been constructed, and this transfer and permits 63-32560 and 63-32561 have been filed to bring the water rights up to date. The ponds will cover the lands currently allowed to be irrigated by this water right, therefore it appears as though there is no change in the current delivery system. A complaint was filed earlier concerning the flooding out of a neighbor, but that appeared to be the result of a drain ditch that was removed. Apparently the drain ditch has been re-installed to avoid any future problems with the flooding of the neighbors property. The neighbor has will be sent a notice of this application to allow them to object if further issues arise.

ENLARGEMENT OF USE:

This water right was originally an irrigation right, and the same acres being retired are the exact same acres being used for the pond. The evaporation rate of the pond is greater than the amount of volume allowed to be delivered under this right. The permits were filed with additional volume requested to account for any evaporation above the amount allowed under this transfer. The ponds will generally be filled at the end of the irrigation season and allowed to remain full until the canal water has seeped and evaporated out of the ponds. The water remaining in the ponds during the summer months is the water contributed by the shallow ground water. .

LOCAL PUBLIC INTEREST:

There is nothing to suggest that this application is not within the local public interest.

BENEFICIAL USE/CONSERVATION OF WATER RESOURCES:

Applicant proposed beneficial use consistent with irrigation standards for the area.

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

NARATIVE

CONDITIONS AND SUGGESTIONS

The ponds under this transfer were the subject of a complaint in 2006 between the Tom Moroney and John and Ginger Breshears. The complaint stated that these ponds caused the lower portion of Breshears property to flood. A field investigation revealed that the ponds were not the reason for the flooding. A drain ditch had been removed by Moroney during the construction of the ponds, which appeared to be the reason for the flooding of the property. Mr. Moroney was required to replace the pipeline, which I have been told is already done, and file these water rights for the pond. A comment letter will be sent to the Breshears during the advertising process to ensure they are aware of the water rights and protest them if they are still having flooding problems.

This water right was for approximately 8 to 9 acres of irrigation. It was limited to 0.18 cfs and 28.8 acre feet of water to be used on 1206 acres of ground when combined with 14 other water rights. These rights when combined provide approximately 0.022 cfs per acre for the 1206 acres. The canal company chose to use this right, since it was very close to the amount of water needed for the evaporative losses of the ponds. There is 9 acres of surface area for these ponds, which is the 9 acres of ground being retired under the water rights. Therefore, I am using the 9 acres as the number of acres associated with this water right.

Using the NOAA Technical Report NWS 33, Evaporation Atlas 1982, the pond surface area has a free water evaporation rate of 45 inches per acre or 3.75 acre feet per acre for this location. The ponds have 9 acres of surface area, which would require 33.75 acre feet of water for evaporation losses. This transfer will provide 28 acre feet of that water leaving 5.75 acre feet of evaporation to be covered. The two permit associated with this transfer have requested additional water to make up the 5.75 acre feet required for evaporation. The applicants plan is to fill the ponds at the end of the irrigation season to provide duck habitat and allow the ponds to sit until the end of the following irrigation season. Whereas the ponds will only be at the fullest level during the winter months, the full 33.75 acre feet of evaporation probably will not occur. The ponds will likely have a greatly reduced surface area during the middle of the summer or hottest part of the year, so the evaporation rate would be much less. This proposal seems reasonable.

There are no other significant overlapping water rights, so I can find nothing other than the possible protest by the Breshears that should prevent this application from being approved. This transfer seems acceptable as listed on the front page of the transfer with the inclusion of the conditions on the draft approval.