

Memo

To: file 22-265, 22-4195
From: W. Roger Warner
Date: 3/1/2007
Re: Exchange Application Comments

General:

The Application for Exchange has been filed by DKJ Farms, LLC for the purpose of renting Fremont-Madison storage water to irrigate acres currently covered by claim 22-4195 that has been recommended in the SRBA but has not yet been decreed. This exchange is also a requirement of a pending notice of violation that was sent to the applicant.

Authority to File:

DKJ has not yet rented water but as a precaution against running out of water mid-season, makes the application under the assumption that they would pursue rental water once they have been approved. Fremont-Madison Irrigation District is the owner of the Cross-Cut Canal. DKJ are in the last phase of being annexed into the District and one could assume that it will be complete by irrigation season. Applicant is the owner of the lands to be irrigated with the storage water.

Water Right Validity:

Portions of the lands in question are covered by right 22-265 which is limited to the irrigation of 200 acres per season. The remaining irrigated areas are under beneficial use claim 22-4195. Whereas right 22-265 was a previously decreed right, both rights have now been favorably recommended by the Department and sent to the Snake River Basin Adjudication (SRBA) court.

Injury to Other Water Rights:

Injury will be avoided by regulation of the Watermaster. The exchange will be conditioned such that diversion and use of Moody Creek water is limited to times when storage water is available and being delivered.

Enlargement of Use:

No enlargement will result from the exchange. The approved exchange will be conditioned to ensure diversion and use under the exchange is limited to storage amounts available and delivered, and limited to amounts authorized under right(s) involved in the exchange.

Local Public Interest:

The lands to be irrigated are located within an agricultural community and are congruent with nearby land use. However, there are others that feel the use of Moody Creek water for agriculture is not in the best interest of local biota. The Department has received several communications from this group. The exchange will be published in the local newspaper to determine further local public interest.

Beneficial Use / Conservation of Water Resources:

The exchange will provide rented storage water for year 2007 since the status of water right 22-4195 remains a "claim" until decreed by the SRBA court and will be subject to curtailment. Following SRBA decrees, provision of rental water may or may not be necessary. However, when right 22-4195 is out of priority, it is possible that storage water may be needed.

Review of the application finds there is not clear inconsistency with criteria set forth in Section 42-240 Idaho Code preventing processing of this application.