

Stanton, Jim

From: Keen, Shelley
Sent: Wednesday, August 09, 2006 11:15 AM
To: Yenter, Cindy (Hodges); Peppersack, Jeff
Cc: Merritt, Allen; Stanton, Jim
Subject: RE: Carey High School Permit

Cindy,

I think you're right on, except that we need to be careful about saying the ground can't be irrigated from any water right. As Jeff pointed out, Simpson may acquire some other supplemental right in the future. Rather than "any right", maybe we should say it can't be irrigated using the existing SW right.

Shelley

-----Original Message-----

From: Yenter, Cindy (Hodges)
Sent: Wednesday, August 09, 2006 11:11 AM
To: Peppersack, Jeff; Keen, Shelley
Cc: Merritt, Allen; Stanton, Jim
Subject: Carey High School Permit

Shelley, Jeff -

I've remembered what my issue was with Simpson. Simpson still owns the land, and so long as there is only surface water delivered, he should be able to irrigate all of it. However, when he is commingling sw and gw that means that not only are his gw acres limited, we should presume that his sw shares are too (otherwise he wouldn't be using gw). Recall that for this system the well was historically pumped only when there was canal water already in the ditch, to extend the projected allocation of sw. The gw alone cannot make it down the canal. Therefore, I had proposed that during years the well is being operated to supply additional water, 20 acres must be idled and receive no irrigation water from any source. For any year that will happen, Simpson can be required to notify me and ID the acres (in the event of a valid ppu), and I can monitor that. That makes him give something up, and is a disincentive to pump the well at all.

I think Jim is drafting a second condition for review....

Cindy

Stanton, Jim

From: Stanton, Jim
Sent: Monday, August 07, 2006 4:54 PM
To: Retelle, Erin
Cc: Stanton, Jim
Subject: RE: App For Permit 37-21742 Blaine County School District

Erin - I have added 26A & a requirement for filing a COO before using the permit. The mitigation schedule was offered by the applicant, so it seems reasonable to go along with it. They have more water than they know what to do with this year, so won't have any need of the well. With a reasonable carryover of reservoir water and a decent winter, they probably won't need it next year either. So the proposed mitigation schedule really doesn't mean anything. I will bring the file to the Wednesday meeting so we can talk about it, but I plan to give it to Mary after that unless something else comes up.

-----Original Message-----

From: Retelle, Erin
Sent: Monday, August 07, 2006 2:58 PM
To: Stanton, Jim
Subject: RE: App For Permit 37-21742 Blaine County School District

Jim,

Add 26A if the development period is > 1 year. I added 046 and 051 b/c it's in WD 130. I think we should put a condition on there requiring the ownership change be completed prior to diversion of water...otherwise we can't be sure the owner of the mitigation right will follow through. Shelley was looking at this one as well and had a question: If the mitigation right has not been used for years, don't they get credit for pre-reduction? We can talk about the pre-reduction issue in this week's meeting probably, but either way I think it's ready for advertising.

Thanks and sorry I didn't get back to you!
Erin

-----Original Message-----

From: Stanton, Jim
Sent: Monday, August 07, 2006 2:43 PM
To: Retelle, Erin
Cc: Stanton, Jim
Subject: App For Permit 37-21742 Blaine County School District

Erin - I requested your review on June 29, but have received no response. If you have no comment, I will forward this to advertising. Let me know one way or the other. Thanks.

Stanton, Jim

From: Stanton, Jim
Sent: Thursday, June 29, 2006 4:28 PM
To: Retelle, Erin
Cc: Stanton, Jim
Subject: App For Permit 37-21742 Blaine County School District

Erin - I have finished my initial review, including proposed conditions of approval. Please review and let me know when the app can be forwarded for advertising.

Stanton, Jim

From: Keen, Shelley
Sent: Tuesday, May 16, 2006 12:38 PM
To: Stanton, Jim
Subject: Conditions 116 and 170 in 37-21742

Jim,

I agree with you that Condition 116 is not necessary because 170 covers the issue. Condition 116 was created for transfers, whereas 170 is for permits. Remember to work with Cindy on the part of 170 describing the land that will no longer be irrigated under the mitigation right. To allow IDWR to verify the mitigation, it needs to be clear that the land can be irrigated with surface water until the GW is used, at which point it can't be irrigated from any source.

Shelley

Yenter, Cindy (Hodges)

From: Keen, Shelley
Sent: Monday, April 17, 2006 3:09 PM
To: Yenter, Cindy (Hodges)
Subject: RE: Carey High School Permit

Cindy,

Christian and I discussed the issue you've raised. My initial reaction was the same as yours -- complete the ownership change and then file a transfer. However, after lots of discussion, I don't think we reached a final conclusion. If I remember correctly, I left the door open for him to suggest that we might not need a transfer. The logic went something like this:

Because the mitigation will be accomplished by non-use of the Simpson right, IDWR will not require a transfer to change it to mitigation. Instead, the new permit will be issued with a condition saying that IDWR will go into the mitigation right and change part of it to "mitigation" use. Normally the condition states where the "mitigation acres" are located. Because we have to go into the mitigation right to change it anyway, it seemed like we could make the PPU as part of that effort. It would save us from having to process another transfer. I did tell Christian that IDWR would want Simpson to submit a plan to show IDWR how we will be able to verify which 20 acres are not receiving supplemental water. Did he include anything like that?

The wrinkle in the plan might be the ownership change. I suppose that if the Simpson right is changed before the ownership split is accomplished, then we can avoid the transfer. If the split were to be done first, I think the permit conditions would give us the ticket to change the school district part, but not the Simpson part.

Call if you think we should talk it over some more.

Shelley

-----Original Message-----

From: Yenter, Cindy (Hodges)
Sent: Monday, April 17, 2006 12:21 PM
To: Keen, Shelley
Cc: Stanton, Jim
Subject: Carey High School Permit

Shelley - I've received the Ap for Permit for supplemental irrigation at Carey High School. It is pretty much as we have all discussed (at length) so I'm going to pass it to Jim for review. There was one thing in Christian's cover letter which concerned me but I'm not sure what you told him, and I didn't want to contradict you. Christian indicated that, pursuant to the water sales agreement with Dick Simpson, that Simpson will transfer the 20-acre interest in his water rights via quitclaim deed after the permit is approved, and then a change in ownership will be filed. That appears reasonable. (the sales agreement is missing from the packet, although I think inadvertently; either Jim or I will notify Christian) However, Simpson seems to believe that a ppu will automatically be created upon the split/ownership change, and that he can reserve the right to irrigate 149 within 169 because IDWR will put conditions on the split right.

On the contrary, it seems to me that Simpson will have to designate which 20 acres he is removing the water from. This parcel should be dropped or split from his pou during the ownership change, and if he wants to establish ppu with the remaining 149 he will have to file a transfer like anyone else. Am I missing something? Can he really just sell "20 acres within 169 acres" without losing part of his gw pou, so long as some 20 acres within the parcel never receives supplemental groundwater in any given year? And, as you have astutely pointed out, how would I ever know? How could we attach additional conditions without going through the transfer process?

Should we bring this to meeting Wed morn?

Cindy

Stanton, Jim

From: Yenter, Cindy (Hodges)
Sent: Monday, April 17, 2006 12:21 PM
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Cc: Stanton, Jim
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Cindy