

MEMORANDUM

Date: August 3, 2006

To: Transfer 72208

From: Jeff Peppersack

Re: Oakley Canal Shares

This memo supplements Corey Skinner's memo of May 1, 2006 to clarify the applicant's offer of SW shares to ensure that enlargement does not occur as a result of the transfer from supplemental ground water to a primary right for use at the feedlot. Conversion from a supplemental to primary right could result in an enlargement of acres due to the unstacking of the GW acres from the SW acres.

Corey's memo explains that the transfer of 14.6 af to the feedlot equates to approximately 10 SW shares at 1.5 af per share (maximum allotment). Corey indicated that Oakley Canal Co. shares vary in quantity based on runoff and carryover storage from year to year. Corey did not estimate equivalent SW acres due to the variability of number of shares used per acre.

The applicant was originally planning to show that Pickett Ranch & Sheep Company had moved at least 10 additional shares to their portion of the original place of use after purchasing the property in 2000. The applicant proposed that the consolidation of shares would reduce the total SW acres under the canal co. and enlargement would be prevented.

Apparently the applicant was not able to demonstrate the consolidation of acres by Pickett Ranch & Sheep Co. As an alternative, the applicant submitted a Water Use Agreement, dated June 28, 2006. The agreement indicated that 10 acres of land historically irrigated with Oakley Canal Co. shares in the SW, SW, Sec. 20, T13S, R22E will no longer be irrigated. In addition, 10 shares will be moved off the land and used only on other land presently irrigated with existing shares. Although the agreement indicates 10 acres would be idled, I was not able to find anything in the file that would support the quantification of 10 acres. As noted above, Corey indicated that he did not estimate equivalent SW acres due to the variability in the share quantities.

The consolidation of shares should address the potential enlargement of acres due to the transfer. I am concerned about the ability to track and confirm the continued consolidation, but the agreement should probably be accepted due to the negotiations and good faith effort between the applicant and regional office. The Water Use Agreement should be referenced in the transfer approval with a condition as follows:

Use of water under Transfer 72208 is subject to the Water Use Agreement, dated June 28, 2006, limiting the use of 10 shares of water from Oakley Canal Co.