

Comment Report

Application ID 72035

1. jstanton 8/25/2005 3:58:39 PM Special Administration Area Notes

Comment: Special Administration Areas : Eastern Snake Plain Aquifer

Exempt: N

Reason:

Doc Attached:

Explanation:

2. jstanton 8/25/2005 4:00:59 PM Additional Information Notes

Comment: Reviewed by Adjudication Staff: N/A

Mitigation Plan or acceptance form: N/A

Municipal Rights Anticipated Horizon Information: N/A

3. jstanton 8/25/2005 Comment/Analysis

Comment: This application proposes to dry up irrigated land to provide water for a large dairy to be built on the same adjacent farms. 8 pivots have been used to irrigate the property, and the corners have been in CRP since 1989. The land being dried up is based on the SRBA findings, and includes land outside the pivots. 2 pivots, two pivot halves, and the related corners are being removed so the dairy can be built there. The corners are being dried up in the transfer, as is additional land where the dairy will be built. The NE 1/4 of Section 24 is being shown as a commercial place of use in case they want to land apply dairy waste water in the tract. The 2 existing irrigation wells, and a new well to be drilled, will provide the required water. The existing wells will still be used for irrigation in addition to the dairy use, with water being shunted into a large storage tank as needed to supply the dairy. One of the existing wells will be the main supply, with the other tied in as a backup source; they are not sure which is which, however, as the system is not yet fully designed.

On 3-16-06, I spoke with Jack McCall, a realtor who has been pushing this project along. I told him that the applicants needed to decide which part of the NE pivot they wanted covered under the irrigation portion of the right. He said to show the north half (part of the pivot acres are being dried up to provide dairy water), leaving the south half dependant on dairy waste water. If the dairy expands, it would probably be into the south half of the pivot. He has been working closely with the former and present land owners to get this transfer thru the process. I am getting signatures from the new owners, so that should cover this change to the application. This should take care of the irrigation/commercial overlap for this pivot that was discussed in the weekly transfer meeting yesterday.

Authority To File: The original applicants have sold both farms to Big Sky Dairy, which is shown as the applicant on the corrected application. They have agreed that Big Sky should now be the applicant. Deeds in the file confirm the sale. Signatures of the new

should now be the applicant. Deeds in the file confirm the sale. Signatures of the new applicant are not required on the correct application per Pam Skaggs.

Water Right Validity: The right for the west farm was recently decreed, and the decrees for the east farm are still pending. Forfeiture is not an issue.

Injury To Other Rights: These wells are not in the ESPA model grid that is presently in use, so no analysis is possible. The wells would be in either the same or in adjacent cells anyway, so it is unlikely that taking some water out of the new well will have any measurable effect on the Snake River.

Enlargement of Use: None requested. The number of acres being dried up is based on FSA crop records showing what has been historically irrigated on the property; 1999 was chosen as the highest water-use year. The crop under each pivot or part pivot being dried up is also being applied to the corners, which appears to be reasonable in this situation. There was a question regarding the use of Oakley Canal Co. water on this land, but there is a statement from them in the file stating that they have not delivered water there in the last 5 years. Rt. 45-514A from Big Cottonwood Creek is also recommended on this property. I recently visited the property, driving all the way around it to see if surface water was used there. While surface water (probably Oakley Canal Co. water) was being delivered to land north and east of here, I did not see any connection to the existing groundwater system. Mike Cranney told the consultant for this project that Cottonwood Creek water never reaches this property, and I have no reason to doubt this. There was a section of above-ground mainline that appeared to connect the two wells, but this is not recorded in the water rights. They have provided a summary of power records for these wells for 2000-2004 showing about 2.7 million kwh used here each year, but there are no actual power records in the file. It appears clear that ground water is the primary source for this property; the appurtenant surface rights will be brought in as associated rights in order to remove Sec. 24 as a place of use, since it is too late to do this in the SRBA without a major hassle; original applicant Mike Cranney has agreed to this.

Local Public Interest: No issues identified. The owners will still need DEQ & P & Z approval to build and operate the dairy; any siting issues will be handled by those agencies.

Beneficial Use/Conservation of Water Resources: No issues identified. Any wastewater generated by the dairy will be land applied on the two farms, reducing the amount of water needed for direct irrigation.

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.

4. jstanton 9/7/2005 Legal Notice Remarks

Comment: This application proposes to dry up land on 2 adjoining farms to provide water for a large dairy to be built on the property. The two existing wells will provide water for the dairy, and a third well will be drilled if needed. Dairy waste water may be land applied through the remaining pivot sprinklers as needed. The dairy will be located 8 miles north and 3 1/2 miles west of the Oakley city center.