

Comment Report

Application ID 71179

1. jstanton 7/9/2004 11:00:18 AM Additional Information Notes

Comment: Reviewed by Adjudication Staff: Request

Mitigation Plan or acceptance form: N/A

Municipal Rights Anticipated Horizon Information: N/A

2. jstanton 7/9/2004 Comment/Analysis

Comment: This application proposes to change the point of diversion for the portion of the licensed ground purchased by the applicants some years ago. The change has already occurred without benefit of a legal transfer. The transfer appears to be approvable.

I recently visited the subject property after viewing the Wendland property (T71169). I discussed the situation with Wendland, as King was not available. They are still arguing where their dividing fenceline should be, and Wendland has erected a fence that puts all of his stream on his side of the fence. The property deed puts most of this stream on the King property, however. My transfer shape is based on the deed, not on the fence location. King bought some land on the north side of Rock Creek, but this is all just overgrown bottom land, so I am not showing it as part of the pou; I do not think it was part of the original pou. A flowing stream (presumably a drain ditch) enters the SW corner of the King land on the surface before running underground for a short distance to a concrete standpipe. A pump in the pipe would divert the water, but no pump was there during my visit (Wendland said that King has not used the water this year). This flow then comes to the surface again north of the standpipe, running north to the original pod & then into the main stream below the Wendland diversion. The 2 diversions have no affect on each other, as they divert from 2 separate water sources. The corrected application shows the source as an unnamed stream to reflect the permanent nature of the source; it also divides the licensed stockwater use equally between the 2 parties.

Authority To File: The applicants have supplied a warranty deed confirming their purchase.

Water Right Validity: This is a licensed right that has been protected from forfeiture by the filing of the SRBA claim. The applicant stated that the right has been used more or less continuously anyway, so forfeiture does not appear to be an issue.

Injury To Other Rights: No issues identified.

Enlargement of Use: None requested.

Local Public Interest: No issues identified.

Beneficial Use/Conservation of Water Resources: No issues identified. The land will

Beneficial Use/Conservation of Water Resources: No issues identified. The land will be sprinkled for maximum efficiency of water use.

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 issues have been identified that would require further review or the submittal of additional data by the applicants.

3. jstanton 7/20/2004 Legal Notice Remarks

Comment: This application proposes to add a point of diversion for the King portion of this water right, as the original diversion is inconvenient for the 1/3 of the right bought by the applicant. The new point of diversion is on the same water source as the original, but a little further upstream. Livestock drink from the stream, from a natural spring, or from Rock Creek.