

MEMORANDUM

To: File 57-7100, 57-7051A, 2-202A

From: Cynthia Bridge Clark

Date: May 4, 2004

Re: Lease/Rental of Water Right to the State Water Supply Bank

The applicant filed an application to lease a portion of water right 57-7100 to the Water Supply Bank (bank). A companion application was filed by the owner of the right, Ted Cantrell, to rent the same right out of the bank for use on adjacent fields. The applicant intends to install a pivot system on the new land, and is compiling a transfer application to make the change permanent.

Mr. Cantrell currently has three water rights used on an existing field in the NWNW, Section 31, Township 5S, Range 4E, B.M. Water right 57-7100 authorizes irrigation of 53 acres, including 48 acres in the NWNW, from Shoofly Creek, tributary to the Snake River. Rights 57-7051A (ground water source) and 2-202A (Snake River source) authorize 18 and 9 acres, respectively, of irrigation use in the same quarter quarter. Right 57-7051A authorizes irrigation of a total of 60 acres. Both of the basin 57 water rights were partially decreed in the Snake River Basin Adjudication (SRBA) in 1997 and carry the following condition:

USE OF THIS RIGHT WITH RIGHT NO. 57-07100 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.55 CFS AND TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 508.5 AF.

Water right 57-7100 also carries the condition:

USE OF THIS RIGHT WITH RIGHT NO. 57-07051A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 113 ACRES IN A SINGLE IRRIGATION SEASON.

The conditions do not account for the overlapping portion of the right, and currently authorize a total of 66 acres of irrigation in the above referenced NWNW tract. This should be considered when right 2-202A is reviewed in the SRBA to ensure an additional 9 acres are not authorized on the 48-acre tract.

Based on these conditions, the applicant is interested in transferring 35 acres from the NWNW quarter quarter under right 57-7100 to adjacent land. He would like to use the acres remaining in the NWNW under right 57-7100, the 18 acres associated with right 57-7051A, and 9 acres authorized under right 2-202A in the NWNW for continued irrigation on the existing field. I explained to Mr. Cantrell that irrigating 75 acres with water authorized for irrigation on a 48-acre tract would constitute an enlargement of the rights. I told him this would be considered in the review of a water supply bank and transfer application despite the conditions on the partial decree.

Additionally, ground water right 57-7051A has not been used for some time according to the applicant. The right was partially decreed in the SRBA in 1997, therefore evidence of

use is required. The applicant supplied statements regarding the use of both rights 57-7051A and 57-7100. The overlapping portion of right 57-7051A will be accepted for lease into the bank as a supplemental right. Additional information regarding the other 42 acres will be required for lease acceptance.

Mr. Cantrell stated that he intends to irrigate 25 acres in the NWNW quarter quarter this year. He agreed to lease/rent portions of all of the overlapping rights prevent the possibility of enlargement and to provide protection from forfeiture. He also confirmed that the points of diversion will not change through the bank transactions or a transfer, and water used on the new ground will only be diverted from the point of diversion associated with water right 57-7100 this year (Shoofly Creek). The applications to the bank are approved for lease/rental of portions of all of the rights with conditions limiting the total diversion rate, diversion volume and acres irrigated based on the overlap identified in the NWNW tract.

The following describes the portions of the rights that were leased and rented from the bank:

Portions Leased to the Bank:

Right No.	Acres (ac)	Diversion Rate (cubic ft per sec., cfs)	Diversion Vol. (acre-feet, af)	Place of Use of Leased Right (T5S, R3E)
57-7051A	18 ac	0.45 cfs	81 af	18 ac in NWNW, Sec 31
57-7100	35 ac	0.70 cfs	157.5 af	30 ac. NWNW, Sec 31, & 5 ac SWSW Sec 30
2-202A	20 ac	0.37 cfs	90 af	7 ac. SWNE, 13 ac NWSE, Sec 31

Limiting conditions related to rental of overlapping portions, and the continued use this season of the rights in the NWNW tract:

1. Water rented from the bank under rights 57-7051A and 57-7100 from lands located in the NWNW Section 31, T5S, R4E, B.M, is limited to irrigation of a combined total of 30 acres, and a combined diversion rate of 0.6 cfs and diversion volume of 135 af.
2. During the term of this lease, use of rights 57-7100 and 2-202A for irrigation of lands located in the NWNW Section 31, T5S, R4E, B.M, is limited to irrigation of a combined total of 18 acres, and a combined diversion rate of 0.36 cfs and diversion volume of 81 af. Water may be rented from the bank for irrigation of additional acres in the referenced location.

Portions of rights Rented from the bank:

Right No.	Acres (ac)	Diversion Rate (cubic ft per sec., cfs)	Diversion Vol. (acre-feet, af)	Place of Use of Rented Right
57-7051A	18 ac	0.45 cfs	81.0 af	Not to be diverted. *
57-7100	35 ac	0.70 cfs	157.5 af	30 ac NENW, 5 ac SENW Sec 31, T5S, R4E
2-202A	7 ac	0.13 cfs	31.5 af	NWNW Sect 31, T5S, R4E
Total Combined Rental:	42 ac	0.83 cfs	189.0 af	

* The renter stated the groundwater right would not be diverted under 57-7051A this season. However, the portion associated with the NWNW tract must be rented in combination with 57-7100 to avoid enlargement should the right be used.