

Peppersack, Jeff

To file 71010

From: Jones, Doug
Sent: Thursday, June 17, 2004 12:21 PM
To: Peppersack, Jeff; Merritt, Allen
Subject: RE: Letter from Brockway in Support of Petition for Reconsideration

IDWR (i.e. this office) is highly likely to recommend the place of use for the decreed and licensed water rights in a PPU. The decreed rights would be limited to 227 within the PPU. I think the transfer approval establishes that, anyway. There is NO documentation that the decree was wrong (as to land description that the award of water was appurtenant to) or that the number of acres presently irrigated that are outside of the decreed tracts were in fact once irrigated within the decreed tracts and then accomplished transferred into tracts outside the decreed place of use.

Perhaps I don't fully follow Brockway's follow up letter. All the acres approved in the transfer have pretty senior priorities - older than an enlargement priority date. If Brockway is asserting that they should have a decreed priority date on the outside acres because they use flow only available to the decreed rights then he is mistaken - I.C. 42-1416 (1st Presumption) was repealed.

I do not recommend any changes to the transfer approval.

Doug

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

From: Peppersack, Jeff
Sent: Monday, June 14, 2004 4:52 PM
To: Merritt, Allen; Jones, Doug
Subject: Letter from Brockway in Support of Petition for Reconsideration

The attached letter is Brockway's response to our information request regarding their petition for reconsideration. We asked for information in support of the petition to confirm historic acreage irrigated under the water rights associated with the transfer (71010). The information was supposed to include location of diversions, ditches and irrigated lands as developed and changed over time.

I don't think Brockway was responsive regarding the location of diversions, ditches and irrigated lands as developed and changed over time. Brockway's letter indicates that regional staff already have information regarding diversions and ditches, but I wonder if it includes historic information. In addition, the information provided sounds like support of an expansion claim, not an accomplished transfer.

I am seeking your input regarding Brockway's response. If an expansion claim is warranted, then they may need to file the claim(s) and additional transfers to add POD, etc as desired.

Thanks,
Jeff

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