

Holliday, Michael

From: Bromley, Chris
Sent: Friday, July 30, 2004 11:40 AM
To: Holliday, Michael
Subject: RE: scotts slough

Thanks for pointing this out.

I'm not clear how Independent believes it can use the district court or supreme court decisions to support a claim to 132 cfs in 25-4086.

The amount of water directly at issue in each decision was 44 cfs. Both courts expressly stated this fact. The district court stated that the place of use for the 44 cfs was 2,200 acres (acreage and amount are consistent with Idaho's one inch per acre guideline). The supreme court affirmed the district court's finding that Independent was entitled to 44 cfs.

The only other water mentioned--by the supreme court only--was Independent's right to irrigate 1,700 acres with water from the Snake River that was diverted by means of Scott Slough. At one inch of water per acre, Independent would seemingly have an additional right to approximately 34 cfs of Snake River water in Scott Slough, which is no where near 132 cfs.

Based on the claims, I would say that the evidence supports 25-4585. However, I would recommend 25-4086 denied and see what Independent comes forward with in support.

Chris

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

From: Holliday, Michael
Sent: Thursday, July 29, 2004 4:22 PM
To: Bromley, Chris
Subject: scotts slough

Hi Chris.

Following up from our meeting yesterday, Independent Irrigation Co. has 2 claims (25-4085 and 25-4086) which refer to the Supreme Court decision we discussed. 25-4085 appears to have been quantified, at least in the initial court proceeding, but 25-4086 seems to be based on some statement by the judge in one of the decisions saying that inflow into the slough exceeds 44 cfs. See remarks on the claim. Hope this helps.

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