

To: Kay Walker

From: Kristin Moore and Harold Jones

Re: Clarification and Correction of License 22-7397

Date: December 29, 2005

*Check ~~the~~ claim
file for copy
of this memo.*

*TPX
Ernie*

The field exam performed in summer of 1987 by Samuel Filetti (summer field examiner) showed that 158 acres were irrigated with a recommendation of 3.16 cfs from a well in SENE of Sec 10. Senior field agent Keith Wilson then added a remark about additional ground (approx. 100 acres) in Sec 11 T6N R41E that was supposedly being irrigated from the same well. The water rights listed (22-2196, 22-2257, 22-2271B, and 22-7234) as being appurtenant to that additional 100 acres were filed in Transfer 2728 in 1982 by Val Schwendiman and approved in 1983. These 100 acres were not associated with this well at the time of the field exam by Sam Filetti. The map enclosed (Map 1), which we believe to be created by Keith Wilson in part, shows mainlines connecting the two pieces of ground. However, we do not know if Mr. Wilson was on site.

License 22-2186 had originally covered the ground in NE1/4 of Sec 10 that Mr. Harris now owns and has licensed under 22-7397. Conversations with Walz Enterprises show that the ground in Sec 10 was bought without water right. This prompted Mr. Harris to drill his own well and file for license 22-7397 with a May 1982 priority date. Walz Enterprises had all the ground in common listed under licenses 22-2186 and 22-7397 and connected with a common system prior to selling to Mr. Harris. Map 1 enclosed suggests that at one time it may have been connected with the 100 acres mentioned in Mr. Wilson's notes. But none of the rights listed on that 100 acres mention the property or wells associated with 22-2186 or 22-7397. All the rights under Transfer 2728 were from wells other than Mr. Harris' in Sec 10 and were transferred to four wells located in Sec 1, 12, and 14 of T6N R41E.

A review by Tim Luke on January 24, 1990 (memorandum included) makes an attempt to include the 100 acres in Sec 11 as a part of 22-7397. The memorandum is self explanatory in that Mr. Luke then prorated the 3.16 cfs recommended in the field exam over 258 acres rather than the 158 acres for which it was intended. We think that Mr. Luke should have approached this differently, licensing 22-7397 as the examiner recommended and including a recommendation for a new permit for the 100 acres in Sec 11 with a limiting remark on the quantity of water. In light of Transfer 2728, however, this seems unnecessary since most of that ground, with the exception of 20 acres in the E1/2NW1/4 of Sec 11, was already covered prior to the field exam for 22-7397.

Our request is that Mr. Harris be allowed his full quantity of water as the field exam by Sam Filetti shows was being used at the time. Mr. Harris filed his claim for 3.16 cfs, and we believe that it is an error that he be limited to 1.97 cfs because of a lack of understanding of someone uninvolved with the entire situation. We are ready to make a recommendation on 22-7397 and would appreciate a timely response so that we can continue. Thank you.