

MEMORANDUM

TO: Files 75-5, 75-19G, 75-21, 75-22, 75-10777, 75-10778, 75-10779, 75-10780

FROM: Monica Van Bussum

DATE: August 18, 2009

RE: Reconsidering water rights 75-5, 75-19G, 75-21 and 75-22

The SRBA Court asked IDWR to prepare proposed recommendations in anticipation of a review of title to water rights 75-5, 75-19G, 75-21 and 75-22, filed and previously recommended under the name Arrowhead Water District. This memo details how I propose altering the recommendations if Cummings prevails in proving his ownership of portions of these water rights.

I began by reviewing the place of use (POU) map in adjudication claims files 75-10777, 75-10778, 75-10779 and 75-10780, collectively called the "Cummings claims." The map showed 20.4 acres in Sec 1 NESW, 20.2 acres in SESW and 1.1 acres in SWSE, for a total of 41.7 acres. I then recreated the shape in ArcMap and came up with 41.7 acres, 21.4 acres in NESW, 20 acres in SESW and 0.3 acres in SWSE. 41.7 acres comprises 12.7 percent of the 328.8-acre POU recommended under the Arrowhead claims (41.7 divided by 328.8 equals 0.127).

I then calculated 12.7 percent of the original decreed flow for each of the rights to determine the proper flow rate for the Cummings claims:

- 75-10777: 12.7 percent of 5 cfs (right originally decreed for 5 cfs) = 0.64 cfs
- 75-10778: 12.7 percent of 0.15 cfs (portion claimed for irrigation) = 0.02 cfs
- 75-10779: 12.7 percent of 0.1 cfs = 0.01 cfs
- 75-10780: 12.7 percent of 2 cfs = 0.25 cfs

I then subtracted these amounts from the corresponding Arrowhead Water District claims to determine the proportionate share of the right still to be recommended to Arrowhead:

- 75-5: 5 cfs – 0.64 cfs = 4.36 cfs
- 75-19G: 0.3 cfs – 0.02 cfs = 0.28 cfs
- 75-21: 0.1 cfs – 0.01 cfs = 0.09 cfs
- 75-22: 2 cfs – 0.25 cfs = 1.75 cfs

Transfer 4104

I would like to address the subject of Transfer 4104, which was signed August 20, 1996. The transfer changed the purpose of use for 75-19G and 75-21 from irrigation to domestic. Cummings claim 75-10778 was filed for part of 75-19G, with 0.15 cfs claimed for irrigation and 0.15 cfs claimed for domestic for a total of 0.3 cfs. Cummings claim 75-10779 was filed for part of 75-21, for 0.1 cfs of irrigation.

The information available to us now was not available during the previous transfer process and necessitates further review. Normally an approved transfer would preclude us from making any changes to Arrowhead's recommendations, which of course were originally based on the transfer. However, because the ownership of the water is contested here, and it appears Cummings has a meritorious position in asserting his ownership of portions of each water right, it is acceptable for us to revisit Arrowhead's recommendations. In fact, we can not recommend any water to Cummings unless we revisit the quantity for Arrowhead's water rights. Therefore, we must reduce Arrowhead's quantity under its water rights to allow Cummings his proportionate share of each water right.