
Memorandum

Date: July 7, 2017

To: File 95-7134, 95-7376

From: Craig L. Saxton

Re: Review Memo

95-7134 and 95-7376 were both licensed in 1974 to Donald L. Lubbers. Together, the rights authorized irrigation of a total of 14.6 acres. The rights used the same system but did not overlap POU. 95-7134 authorized 7.3 acres and 95-7376 authorized 7 acres of irrigation. The place of use authorized under these rights consists of two parcels. Parcel 50N06W127200 is to the west and parcel 50N06W127250 is to the east.

When claim 95-7134 was filed, according to the claim map, the intent was for the POU to include the West parcel only. However, the West parcel is only 5 acres and the license 95-7134 authorizes 7.3 acres.

When claim 95-7134 was filed, according to the claim map, the intent was for the POU to include both the East and West parcel but all of 95-7134 can fit entirely on the East parcel.

In 1993, Michael Pennestri filed an application for permit to divert ground water for irrigation of the East parcel. Under Item 10 on the application, he indicated that no other water rights were used for the same purpose. So as of 1993, the land owner of the East parcel (50N06W127250) was not using either license...they weren't using surface water. To further support this, there is a memo in the back file for 95-8830 from Jharris (IDWR agent but I don't know the full name) that states that the surface water rights were never used on this land. I don't believe that it is necessarily true that they were never used on the land, but I think this tells us they haven't been used on the land since 1993.

I do not, however, have evidence that surface water was forfeited on the West parcel. But since right 95-7134 authorizes enough irrigation to fully cover the irrigateable land on the West parcel, I am recommending license 95-7376 as forfeited.

I am recommending a portion of license 95-7134 on the West parcel (50N06W127200). The most I can justify is 4.3 acres, 0.13 cfs, and 15 AF. 95-7134 was originally licensed at 0.02 cfs per acre, but since there are no other claims for 95-7134 and it appears the extra acreage, rate, and volume would have been used the West Parcel which has forfeited its water use, then will try to preserve the original diversion rate as much as possible by recommending 0.03 cfs per acre. The remaining portion of 95-7134 will be recommended as forfeited due to non-use.