

Hersley, Jean

From: Yenter, Cindy
Sent: Wednesday, November 4, 2020 10:54 AM
To: Hersley, Jean
Subject: Transfer 84146 Fourth of July Creek LLC

75-14463 and 75-14146 appear to have been decreed with incorrect pous, and the resultant 14.1 acre overlap is the result of numerous ownership splits that left 2 of the subdivision lots completely without water rights. Because SPF was evidently not able to explain the error in order to justify unstacking the rights, the enlargement issue was addressed appropriately by leaving the 2 rights stacked on 14.1 acres on the Elk Meadow parcel. The 8.5 acres under 75-14463 proposed to be moved to the Whispering Pine Ranch and Bighorn Ranch parcels are not stacked with other rights and could be relocated. All other acres under the right remain the same. Due to the acknowledged stack, Fourth of July LLC will effectively lose 14.1 acres from their total decreed rights.

All these acres were irrigated as recently as 2015, including the acres on the two "dry" parcels, so forfeiture does not appear to be an issue.

The added POD is an existing diversion which is used by the LLC for other rights, and by a number of other water users. The three protests filed against this application are from water users who use the lower ditch (my understanding is that Chaffin has acquired Smith 75-14424) and who feel that the ditch cannot carry the additional flow. This may be the case, although none of the diversions on Fourth of July Creek that I am aware of are presently fitted with measuring devices, and few have headgates. Mr. Hallen's statement in his protest that 75-14463 irrigates his land is not correct, although Hallen does use the proposed POD to divert his rights 75-142D and 75-146

I recommend approval with combined acre limits and measurement requirements.

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