

MEMORANDUM

20473

FROM: Daniel Nelson – Staff Hydrologist

DATE: April 24, 2015

SUBJECT: Licensing Review for 37-20473

This is the licensing review of the field exam submitted by Sandy Hemenway formerly in our state office. The field exam was done in 2012. The system associated with this permit allowed on stream stockwater storage on an unnamed stream and spring for stockwater purposes. The field exam has some issues that need to be addressed to prior to licensing of the permit.

Diversion Rate:

This pond sits on an unnamed stream, and has a small spring in the middle of the pond that keeps it full. Since the pond is on the unnamed stream and the spring, there is no need for a diversion rate or diversion to storage component for this permit.

Volume:

Ms. Hemenway calculated the capacity of the pond at 7.6 af. I concur with this calculation. The permit only allows 4 af of storage, so Ms. Hemenway sent the owner a new application for permit. According to the attached spreadsheet, the storage component for this permit when seepage and evaporation are included is 22.4 af, so any future permit applications should not be less than 14.8 af.

Mitigation:

This permit was authorized with a condition that required 1.5 acres be retired from water rights 37-7403 and 37-13369. However, after the permit was approved, water right transfer 77329 was filed the changed the place of use for 37-7403 and 37-13369 and three other water rights into a permissible place of use. Ms. Hemenway requested an abandonment of acres acknowledgement for the owner, which he sent showing the 1.5 acres to be retired on water rights 37-4297 and 37-13369. Unfortunately, the Notice of Abandonment of Water Right did not include the correct water rights discussed in the permit or the remaining water rights within the permissible place of use.

I completed an analysis of the place of use to be retired using water rights 37-4297 and 37-13369, and it was determined that there would be an enlargement if these rights were used. Water right 37-4297 is a storage water right, and may or may not fill each year. If it does not fill, then water right 37-7403 could be used on the acres covered by 37-4297. Therefore, a request was made to withdraw the existing abandonment form and submit a new abandonment form for water rights 37-7403 and 37-13369 as stated in the permit condition. The new abandonment form was received on July 30, 2015 with only water rights 37-7403 and 37-13369 being abandoned.

Staff determined that we could adjust the acres in the permissible place of use, and adjust the conditions on all 5 water rights to reflect the retirement of 1.5 acres using the water right license for this permit as the order changing all of the water rights. The diversion rate, volume, and acre amounts for water rights 37-7403 and 37-13369 could also be reduced using the license as the order for changing the permit.

Place Of Use:

The place of use for this permit will be the same recommended by the field examiner. However, the permissible place of use for all of the water rights will be changed to reflect the acres retired as discussed above.

Conditions:

Condition 26A was removed at licensing. Condition 2 was changed to condition 170. The measurement device requirement was waived by the watermaster, so I changed condition 3 to 01M. I also added a condition to discuss the evacuation of the pond. The watermaster did not waive this requirement, but did accept the removal of the rocks in the spillway as being acceptable. I carried forward condition 5 and added condition R55. Condition 170 was needed on this permit, and a the condition needed to a bit of tweaking to address all of the issues. The 170 condition is as follows:

- 170 To mitigate for the depletion of water resulting from the use of water under this right and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water right for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the right, or portion thereof, is being dedicated to mitigation purposes.

Right Nos.	Use Changed to Mitigation	Mitigation Rate	Mitigation Volume	Mitigation Acres
37-7403	Irrigation	0.02	4.5 ac-ft	1.5
37-13369	Irrigation	0.03		1.5

The land that will no longer be irrigated under this right is located within the NESW, Section 23, Township 01S, Range 15E, B.M.

In addition, the permissible place of use on the official record for associated water rights 37-2218, 37-4297, 37-7403, 37-13369, and 37-21336 will be reduced to 359.5 acres to exclude the 1.5 acres used for mitigation authorized under this right.

In addition, the total acres allowed to be irrigated on the official record for associated water rights 37-7403 and 37-13369 will be reduced to exclude the 1.5 acres authorized for mitigation under this right.

Existing combined use limitations will be revised as well. Rights 37-2218, 37-4297, 37-7403, 37-13369, and 37-21336 when combined shall not exceed the irrigation of 359.5 acres. Rights 37-7403 and 37-21336 when combined shall not exceed a total diversion rate of 2.52 cfs, a total annual maximum diversion volume of 634.5 af at the field headgate, and the irrigation of 269.5 acres.