

Cefalo, James

From: Cefalo, James
Sent: Tuesday, December 16, 2014 2:46 PM
To: 'Rob Harris'; Randy Budge (rcb@racinelaw.net); John Simpson; 'Paul Arrington'; W. Kent Fletcher (wkf@pmt.org)
Subject: Applications for Permit 35-14240 thru 35-14243 (Funk)
Attachments: Draft Permits 35-14240 thru 35-14243.pdf

Dear Parties:

Rob Harris suggested that I circulate draft copies of the permits for Lance Funk (35-14240 thru 35-14243) prior to issuing the permits. I was not able to incorporate the proposed conditions verbatim. I've included a short explanation of the changes made to the proposed conditions. You, as the parties to the agreement, can determine whether the conditions are in substantially the same form as those proposed in the stipulations. Because we are now in the middle of the holiday season, I have chosen to extend the response period. **Please notify me of any concerns you have with the draft permits prior to January 16, 2015.** Of course, you are also free to conduct informal discussions about the permits prior to sending me a response.

Condition (a) from IPCo. Agreement: I included the standard condition designating the permit as a trust water right. Descriptions of the critical stream flows at the Murphy gage do not need to be included in the permit conditions.

Condition (b) from IGWA/SWC Agreements: I changed the language slightly to better describe the process for amending a mitigation plan.

Condition (c) from the IGWA/SWC Agreements: IDWR does not need three reports filed every year to properly administer the permits. One report (containing diversion information from that year and the proposed irrigation for the next year) will suffice. The parties are free to provide additional reports to each other under a private agreement, outside of the permit conditions.

Condition (d) from the IGWA/SWC Agreements: Revised the language to match the standard condition (noncompliance with any condition is cause for revocation of the right).

Condition (e) from the IGWA/SWC Agreements: I chose not to include this condition on the permit. IDWR will administer these rights in the same way that all rights are administered within WD120. IDWR will not conduct special exams for these permits or collect fees from Lance Funk for such exams. IDWR will use satellite imagery and aerial photography to ensure that the permit holder does not exceed the irrigated acres listed on the permits.

Condition (f) from the IGWA Agreement: I chose not to include this condition on the permit. In some cases, IDWR has added a condition requiring participation in a department approved mitigation plan. This is most easily accomplished by joining a ground water district. However, the proposed condition does not make any reference to mitigation. IDWR should not adopt permit conditions about payment of assessments to ground water districts. The permits would be automatically incorporated into Aberdeen American Falls GWD for measurement purposes. The proposed points of diversion are already being measured by AAFGWD.

James Cefalo