

MEMO

Date: June 20, 2012

To: Shelley Keen

From: Craig L. Saxton

Re: Licensing of 79-7269 despite outstanding overlapping permit 79-7194

The overlap review of permit 79-7269 uncovered permit 79-7194. The field examiner recommended an amendment for 79-7194. When the amendment was solicited, the permit holder informed Cherie that he didn't want to pay \$100 and did not use the water anyway so he wanted to relinquish permit 79-7194.

On February 28, 2012, we received a relinquishment form that listed 79-7137 which was decreed by the SRBA court in 2008. We believe that the permit holder unintentionally listed the wrong water right number and intended to relinquish permit 79-7194. This is partially supported by the fact that the permit holder wrote that he only wanted to abandon the mining portion of the right, and 79-7194 is the only permit/water right with a mining component.

At this time there are three options:

- 1) The permit holder can submit an amendment for 79-7194.
- 2) The permit holder can submit a new relinquishment form for 79-7194 that relinquishes the entire permit (not just mining).
- 3) The permit holder can do nothing and we can void the permit.

Around March of 2012 (no date received stamp), IDWR received a letter from the permit holder in relation to permit 79-7269 which was developed for domestic use from a well. This domestic use overlaps the domestic use developed under 79-7194. The permit holder's letter expressed his anger in the delay in issuing license 79-7269.

Normally, in this situation, we would try to issue licenses for overlapping permits at the same time so the overlap can be addressed in the conditions on the licenses. However, despite that 79-7269 overlaps 79-7194, Cherie and I would like to issue license 79-7269 first, before reaching an end conclusion as to the status of permit 79-7194, to help ease any tension that might have developed between the permit holder and the Department. If we are able to issue license 79-7269, the permit holder might be more likely to work with the Department to reach a final end conclusion as to the status of permit 79-7194.

Right now, it looks like 79-7194 will be relinquished or voided and would not need to be included in overlapping conditions anyway. However, in the event that the permit holder does submit an amendment, overlapping conditions can be added to 79-7194 which would prevent stacking despite that 79-7194 isn't included in the combined use conditions on 79-7269.