



MEMORANDUM

TO: File 63-9890

FROM: Monica Van Bussum

DATE: February 3, 2012

RE: Licensing 63-9890

This memo serves to record some of the decisions I made while licensing 63-9890 and should serve as a supplement to Aaron Marshall's licensing memo of September 25, 2008.

This settlement has been a long time coming. The earlier settlement documents were signed in September 2008 and the federal government just entered into an oral settlement agreement to be finalized upon issuance of SF5s. The issuance of a license for 63-9890 will predate the issuance of the SF5 for 63-9890, but the license should be issued first so the SF5 can reflect the settlement. See email from Jan Shurte and Nick Spencer showing David Negri of the United States Department of Justice acknowledging this is an oral settlement agreement and will be finalized through the SF5 process.

Quantity: Field measurements support the system having a diversion capacity of 1.43 cfs. Snake River Basin Adjudication late claim 63-29710 is also from this POD with an earlier priority date. Since the measurement indicates the total capacity of the system at 1.43 cfs, it is advisable to include a condition limiting the two when combined to 1.43 cfs. I spoke with Jan Shurte in Adjudication and she will make sure the same condition goes on the late claim recommendation when it is reported later this year.

As for volume, Aaron's memo indicates the volume should be 628 AF and the settlement recently signed by the parties indicates the volume should be 628.6 AF, the permitted amount. Aaron's volume calculations is based on a calculation based on a number of factors where rounding could have been an issue. Additionally, Aaron's calculation is based on a square footage estimate of the facility. A few square feet in space difference could result in the calculation yielding the additional 0.6 AF. Since the calculation is indeed a calculation, and based on several estimated factors, and not a measurement, and since the settlement requires the 628.6 AF, it seems logical we would license the right for 628.6 AF.