

Memorandum

Date: October 13, 2011

To: File 63-31689 & 63-32169

From: Craig L. Saxton

Re: Licensing Review Notes

Overlapping rights Summary:

63-31726: (Decreed)	14 AF 0.04 cfs	Evaporation Losses only
63-31689:	40 AF 0.17 cfs	Seepage Losses which include the 14 AF for evaporative losses in 63-31726.
63-32169:	60.7 AF	Storage for six ponds only – no evap or seepage losses

63-31689:

Kept the combined use limit between 63-31689 and 63-31726 at 0.18 cfs even though the capacity was measured at 0.17 cfs because partial decree 63-31726 lists the limit at 0.18 cfs.

It is unclear why 63-31689 was permitted with a volume of 40 AF. Because 14 AF of the 40 AF permitted under 63-31689 is already authorized under 63-31726 with an earlier priority date. There is no reason to have included the 14 AF of volume in permit 63-31689 and then essentially take it away by putting combine use limits on the rights that limit use of both rights to 40 AF. Both rights are diverted from the same POD and the purpose of use authorized for the "14" AF is Aesthetic Storage for both rights. However, this is how the permit was written up in the settlement agreement so I am reluctant to reduce the overall diversion volume under 63-31689 and then remove the combine use limit. In addition, I cannot remove the combine use limit from 63-31726.

POU for overlapping right 63-31726 includes NESE and NWSE of section 4 which is not included in the POU for 63-31689 and 63-32169. The POU decreed under 63-31726 appears to cover the entire development where the recommended POU under 63-31689 and 63-32169 only includes locations of the ponds.

Well log shows that the well was drilled deeper than the authorized water bearing zone, but then was backfilled with bentonite and screened from 90 to 100 feet, therefore meeting the water bearing zone condition.

Capacity of well is 0.17 cfs.

63-32169:

Condition # 5 on the permit reads: "Should refilling and/or maintaining the water level in the ponds require more water than is authorized for diversion under Rights 63-31726 and 63-31689, the right holder shall rent water from the water supply bank or provide water from another water right or source in a manner recognized and approved by the Department." The situation described by this condition has not been an issue as the average yearly diversion volume over three years was less than authorized by 63-31726 and 63-31689.

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