

MEMORANDUM

TO: John Westra

FROM: Angie Grimm

DATE: November 23, 2010

RE: Chess/JR Allen Complaint Investigation

Steve Lester and I conducted a site investigation on 11/18/10. We meet with JR Allen on his property. Mr. Allen showed us the old POD (abandoned approximately 6 years ago), the POD for the southside acres (still in use), and the original POD (still in use) for his right 65-3111X. We were able to determine where the main ditch and southside ditch of Mr. Allen's diversion system are located relative to Rock Ck, aka Richard's Ck, and the irrigated acres of the POU for right 65-3111X. Water was being diverted from both active PODs at time of site visit.

Summary of Complaint and Site Investigation

Timeline of Events:

- Sandra Chess submitted original complaint via email on 10/22/10.
- Complaint stated E K Allen Ranches has diverted water from POD not on recorded water right 65-3111X and that diversion is occurring outside the authorized season of use.
- Steve Lester and I conducted site visit on 11/18/10.

Site Investigation:

- First Mr. Allen showed us the old POD site located in NWSE Sec 3 T13N R03E per GPS location collected. Mr. Allen stated this POD was abandoned approximately 6 years ago.
- Then to POD on Rock Ck (Richard's Ck) where Mr. Allen diverts water for the southside acres of his POU. This POD is located in the SENE Sec 3 T13N R03E per GPS location collected.
- Collected GPS locations where the main ditch (referred to as Home Ranch Ck by Mr. Allen) crosses West Mountain Rd and Teepee Rd.
- Collected GPS location on road just above the main ditch POD on Rock Ck (Richard's Ck) in the NWSW Sec 3 T13N R03E. Mr. Allen said this POD is the original POD for the right and has been the site for the diversion into the main ditch for as long as he can remember.
- Mr. Allen stated he diverts water from Rock Ck down his main ditch (Home Ranch Ck) year round for two purposes; 1) stockwater and 2) he can't access the POD until June most years (due to location/conditions), but he needs water for irrigation in May.

- Mr. Allen stated he plans to do some work in the stream channel of Rock Ck in the next couple of weeks to repair the original POD upstream of the diversion dam as well as in the main ditch (Home Ranch Ck) just downstream of the diversion dam to stop leakage currently occurring from ditch back into Rock Ck.
- Did not GPS location of West Mountain Water Assn Inc (subdivision rights) POD, but determined pipe diverting water for this right is adjacent to the main ditch (Home Ranch Ck) where it crosses West Mountain Rd in the SENW Sec 3 T13N R03E. Based on this information, the fact that the POD is downstream from E K Allen Ranches POD, and the map, the POD for the subdivision must be located in the SENW, NESW, or NWSW of Sec 3 T13N R03E.
- Mr. Allen said he communicates with the subdivision rights' owner regarding when Mr. Allen needs to let more water past his diversion down Rock Ck to subdivision diversion. He said there have been no complaints for the subdivision rights' owner regarding not enough water to fulfill the right(s).
- A map based on GPS locations collected and pictures are attached for reference.

Conclusions:

- Original POD and POD for southside acres of right 65-3111X is not recorded on the right. The Old POD (now abandoned) is the only POD recorded for the right.
- Diversion of right 65-3111X is occurring outside of the authorized season of use.
- The subdivision rights are 65-13088 and 65-3111A. 65-3111A POD is recorded as being in the NWSE of Sec 3 T13N R3E, but is more likely in the NESW Sec 3 T13N R03E based on recorded location of 65-13088 POD and site investigation info.

Recommendations for Further Action:

- Department should formally inform Mr. Allen that the POD information currently recorded for right 65-3111X is incorrect. He needs to change the POD from the NWSE (old POD) to the NWSW of Sec 3 (original POD) and add a POD in the SENE of Sec 3 (POD for southside acres) via filing a Transfer application.
- Department should inform Mr. Allen that right 65-3111X only authorizes diversion of water from 4/15 to 10/15 of each year for irrigation purposes. Year round diversion for stockwater purposes is not currently recorded on the right.
- Department should inform the West Mountain Water Assn Inc. that the POD for right 65-3111A is incorrect. A Transfer should be filed to correct the POD from the NWSE to the NESW assuming the POD for both subdivision rights is the same.



Chess/JR Allen Complaint 11/18/2010 Photo #3: Where main ditch "Home Ranch Ck" crosses under Teepee Rd.



Chess/JR Allen Complaint 11/18/2010 Photo #4: Original POD for right 65-3111X. Photo taken looking down onto diversion from Rd. Ditch "Home Ranch Ck" diverted off to left (towards bottom of photo) and Rock Ck "Richard's Ck" flows to the right past diversion (towards top of photo). Orange tarp where diversion dam is.



Chess/JR Allen Complaint 11/18/2010 Photo #1: Old POD for right 65-3111X. POD abandoned approximately 6 years ago. Orange in far left background of photo remains of diversion dam.



Chess/JR Allen Complaint 11/18/2010 Photo #2: POD for southside acres of right 65-3111X. Water diverted from Rock Ck "Richard's Ck" (foreground and far left of picture) via rusted culvert pipe and ditch (middle ground right of picture).

Chess/JR Allen Complaint Field Investigation Map

