

Saxton, Craig

From: Steve Hannula [shannula@eroresources.com]
Sent: Monday, April 18, 2011 4:35 PM
To: Saxton, Craig
Subject: RE: Stockwater Definitions

Craig,

I follow that logic, but is the scenario limited to the permitted rate of 1 cfs or the licensed rate of 0.45 cfs?

I understand having to stay within the permitted rate to include a new use; in this case the permitted rate is 1 cfs and the licensed stockwater rate accounts for only 0.45 cfs of it. There is 0.55 cfs of diversion rate permitted and developed, but not licensed. This is somewhat similar to the amendment proceedings with Lucky Peak under 63-3618, wherein the original permit specified certain volumes and uses, then an amendment was filed years later to modify those volumes and uses, all within the original permitted volume.

My logic is that the permit 63-7533 was for 1 cfs....Obendorff developed a 1 cfs well for use at the feedlot..... the field examiner observed 1 cfs being used for stockwater (plus uses that fit under today's commercial use).....but the license was ultimately made for 0.45 cfs. I don't question the stockwater use of 0.45 cfs (12 gpd/head), but I want to see if there is an argument that the commercial component of 0.55 cfs (remaining portion of the 1 cfs permitted rate) could be added through an amended permit process. In this case, the stockwater rate would not be reduced, only the commercial use and rate added to a total licensed rate of 1 cfs.

I want to make sure that I think through this issue to its conclusion so that I can report to the client that all efforts within reason were made to preserve the water right portfolio. I appreciate your explanations.

Steven Hannula
Hydrogeologist

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From: Saxton, Craig [<mailto:Craig.Saxton@idwr.idaho.gov>]
Sent: Monday, April 18, 2011 10:14 AM
To: Steve Hannula
Subject: RE: Stockwater Definitions

Steve,

I am not aware of a different procedure available at the time 63-7533 was licensed. I assume it would be handled the same way it would be handled today. With that said, if we ran into this situation today, amending the permit to include the new use would not, in itself, resolve the issue. You could amend the permit to include the new use only if you gave up some of the permitted use. So, if we tried to issue the license for 63-7533 today, we might amend the permit to include a commercial component for the feedlot, but then reduce the stockwater use from 2000 head to, let's say, 1000 head (whatever is necessary to mitigate for the new consumptive use).

Thanks,
Craig

From: Steve Hannula [<mailto:shannula@eroresources.com>]

Sent: Thursday, April 14, 2011 5:12 PM

To: Saxton, Craig

Subject: RE: Stockwater Definitions

Craig,

I have a follow up thought. When the licensing of this right (63-7533) took place, was there any procedure available to handle the situation when the field report findings differ from the permit? Was/is there a form or a policy for amending a license to include the additional water use associated with stockwatering not listed in the definition, i.e. dust suppression and cattle misters?

I think this situation is handled today by amending the permit and then licensing the amended version. Not sure how that helps the subject water right. Any thoughts?

Steven Hannula

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From: Saxton, Craig [<mailto:Craig.Saxton@idwr.idaho.gov>]

Sent: Thursday, April 14, 2011 3:54 PM

To: Steve Hannula

Subject: Stockwater Definitions

Hey Steve,

The only formal definition I have for stockwater is:

42-1401(a)(11) "Stock watering use" means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day.

Most all the documents I could find in relation to stockwater refer back to 42-1401(a)(11)

I do have a definition found in the SRBA claims investigation manual that reads:

C. Stockwatering.

"Stockwatering use refers to the diversion of water for drinking by domestic livestock or wildlife."

The claims investigation manual is just a guide to recommending adjudication claims, but it gives you an idea of our guidance related to what is "stockwater".

Thanks,
Craig