

Review Memo

Date: January 27, 2010

To: File 67-7479

From: Craig L. Saxton 

Subject: Review of License 67-7479

Overview:

An extensive overlap analysis was conducted when reviewing the POU for this right. 67-7479 overlaps rights 67-475, 67-482, 67-488B, 67-489 in full and partially overlaps 67-7420. A detailed description of the overlap analysis is described in the November 24, 2009, memo from Monica Van Bussum. This memo can be found in the file. The recommended diversion rate and volume, along with the limiting conditions, ensure that, when licensed, this right when used with all the other overlapping rights, will not exceed one inch per acre and 4.0 af per acre. In addition, overlapping place of use limiting conditions were added to the license to ensure that the total acreage irrigated when used with the overlapping rights, do not exceed that of the total combine place of use recommended under all rights.

Overlapping Rights & SRBA Partial Decrees:

The overlap analysis found that the limiting conditions partially decreed on overlapping rights 67-475, 67-482, 67-487, 67-488B, 67-489, 67-4498, and 67-7420, are not accurate as they were written to reflect an overlapping relationship with 67-7479 as a permit. When the license is issued for 67-7479, the elements of the license will differ from what was originally permitted.

On Tuesday January 19, 2010, I attended a status conference held by the SRBA court. The status conference was to find out what the status of permit 67-7479 was and when it would be licensed. 67-7479 was claimed in the SRBA as a permit. Thus, the recommendation submitted to the SRBA court reflected the water right as a permit and before beneficial use was verified. The court is reluctant to partially decree recommendations based on permits. IDWR informed the court that we were ready to issue license 67-7479 so the court could update their records, however, we had found issues with overlapping conditions on the above mentioned 7 partially decreed water rights and we would like the opportunity to fix those errors.

SRBA Judge Wildman asked the Department to send correspondence to the court with proposed recommendation for those rights that were decreed giving the Department a 60 day deadline.

Ownership:

IDWR received and assignment of permit on 6-16-2007 but it is not clear who has authority to assign the permit (see June 6, 2007 memo by Jeff Peppersack). After reviewing in detail the change of ownership information submitted on March 6, 2007, to update the ownership record on SRBA claim 67-7479, it was determined that the POU permitted under 67-7479 was owned by three distinct parties (Gordon Wilkerson, C. Russell Wilkerson, and L K Wilkerson).

With available information, IDWR could split the license and issue it in three parts, one for each property owner, or IDWR could issue the license in the permit holder of record, "Wilkerson Brothers". After speaking with Jan Wilkerson who had sent in the Assignment of Permit for 67-7479, it was decided to recommend the license in the name of Wilkerson Brothers and the ownership would be addressed in the SRBA. See conversation Memo dated January 26, 2010, by Craig L. Saxton.

Address Change:

I change the mailing address for the permit holder of record, "Wilkerson Brothers". Despite that we could not process the assignment of permit submitted by C. Russell Wilkerson, I felt that was enough information to justify changing the mailing address to ensure that a copy of the license is sent to C. Russell Wilkerson. This will ensure that Russell will have the opportunity to review the license and respond accordingly if necessary.