

MEMORANDUM

Date: September 24, 2009
To: Transfer 70893
From: jstanton
Re: Injury Analysis After POD Check

Cedar Draw currently has 3 power filings held by Crystal Springs Hydro, which total 200 cfs. The system is currently developed and in use. A 36" pipeline carries water from the upper end of the draw to a power plant about 1 3/8 miles downstream from the diversion. Right 47-7768 covers 110 cfs, while Permits 47-7991 & 8005 add another 90 cfs. Right 47-8009 covers the use of 0.10 cfs for industrial purposes at the power house. Right 47-2145 is for 0.36 cfs, and covers the irrigation diversion located about 1 1/4 miles below the hydro diversion. The water used for power dumps back into Cedar Draw right below the power plant. A short distance below that, 47.92 cfs has been diverted for fish propagation under Right 47-7464 until several years ago; the right has not been used for some time, however, but has been protected from forfeiture by the SRBA process. It appears that the power plant and fish facility have separate owners.

The proposed transfer will take another 5 cfs out of Cedar Draw through the irrigation ditch BEFORE the hydro water is injected back into the draw. The licensed power right has a 1981 priority, while the fish right dates from 1978. The later power rights are from 1984 and 1985, and both contain the subordination condition (17K). Flows in the draw, measured 800 feet below the power diversion but well above the irrigation diversion, ranged from 13 cfs to 320 cfs in 1983. Numerous springs and wastewater inflows enter the stream below the power diversion, however, so it is unlikely that the stream would ever go dry between the hydro diversion and the fish diversion. Allen is concerned that the fish applicant could force the hydro guy to reduce his diversion rate (and thus be injured) if there was not enough water available at the head of the ditch for the new fish ponds proposed by the transfer. The proposed use is for personal recreation and experimental fish raising, so it would be difficult for the applicant to claim economic damage if he was not able to get the full 5 cfs; the water might be in the stream, but without enough head to push it all the way to the new ponds (especially in freezing weather). But this is a lot of supposition, so it does not seem fair to deny the transfer due to just the possibility of insufficient flow.

The FERC application for the power plant states that at least 25 cfs must be left in the stream below the power diversion, which is more than the total stream flow during parts of the year (December into April). Depending on how much additional water enters the draw between the hydro diversion and the power-plant discharge during the winter months, taking additional water from this part of the stream could reduce flows below the 25-cfs minimum. I have not asked for Fish & Game comments on this, but they have not chosen to protest the application; apparently they are not concerned about this situation. If they are not concerned, then there is probably no reason for us to be either. I presume that there is a minimum flow needed to run the power plant, so they would probably have to leave the plant idle unless considerably more than 25 cfs was in the stream; putting 10 cfs in a 36" pipeline would not produce much power. It seems likely that the power guy would let more than 25 cfs go until there was enough additional water available to run the plant efficiently, which would reduce the number of days that the applicant would have trouble getting the requested flow.