

Memorandum

Date: December 17, 2009

To: Shelley Keen

From: Craig L. Saxton

RE: Diversion Volume Limits for 45-13402 and 45-14234

Permit 45-13402 and 45-14234 each allow for stockwater use for 800 range cattle. Because the POU on the two permits is the same, and 45-13402 and 45-14234 are for different sources, it was concluded that each permit is for the same 800 range cattle. That being the case, a diversion volume limit needs to be added to each 45-13402 and 45-14234.

The delivery system to the POU listed in each of the permits is a common system and water is supplied by three sources. Two of the sources are covered under the above referenced permits:

45-14234	SPRING	trib to	BIRCH CREEK
45-13402	UNNAMED STREAM	trib to	BIRCH CREEK

The third source that supplies water to the system is WORTHINGTON SPRING trib to SINKS.

BLM's claim to water from Worthington Spring is represented in SRBA recommendation 45-2810A which is currently at issue in the SRBA court. 45-10491 is a competing claim to 45-2810A filed by Bedke. The resolution of these objections has yet to be reached.

The expected result is the SRBA will decree either 45-2810A or 45-10491.

Despite that 45-2810A shares a common system with 45-13402 and 45-14234, since the objection to 45-2810A could result in the right being disallowed, I do not think it should be included in the conditions limiting volume.

In addition, on 4-28-2008, IDWR submitted a supplemental directors report to the SRBA court which included a recommendation for 45-2810A. The recommendation did not include a diversion volume nor does it indicate how much stock is to be served by this water right. I am reluctant to impose a volume limit on 45-2810A if the SRBA court doesn't.