

Memorandum

To: Shelley Keen/File 22-7397
From: Tim Luke *TJL*
Date: February 15, 2007
Re: Response to Kent Foster letter of February 2, 2007 regarding alleged error in licensed rate of flow

Dave Tuthill, IDWR Interim Director forwarded the attached letter from Kent Foster that requests license 22-7397 be amended to correct an alleged error in the rate of diversion from a ground water well. The letter was forwarded to me since my name was listed as one of the staff involved in the alleged error. I have reviewed Mr. Foster's letter and pertinent attachments as well as the license file.

The main issue regarding this matter is the actual number of acres that were being irrigated by the permitted well at the time of the field exam. The examiner clearly indicated that the well was being used with nine wheel lines. Keith Wilson, who reviewed the exam, determined that the nine wheel lines were used on 258 acres, which was about 100 acres more than permitted. The water right permit file includes a map with the field exam that shows a mainline connected from the permitted point of diversion to the approximate additional 100 acres not covered by the permit. One has to assume the map was prepared as part of the exam by the field examiner or Mr. Wilson.

Mr. Foster admits in his letter of February 2, 2007 that the holder of permit 22-7397, Layne Harris, was illegally irrigating about 100 acres in approximately 1988, one year after the field exam was conducted. It seems obvious from this admission that Mr. Foster agrees that the point of diversion under license 22-7397 was indeed being used on the additional 100 acres. Given this admission I believe the analysis provided per my memo dated January 24, 1990 regarding the recommended rate of flow was correct.

Given the above factual information and/or admissions by Mr. Foster, I recommend that the rate of diversion for license 22-7397 not be changed.