

MEMORANDUM

DATE: April 17, 2008

TO: Water Right File 95-8924

FROM: Shelley W. Keen *SWK*

RE: Petition to Amend Final Order

Last week Phil Rassier notified me that the right holder appealed the order issuing License 95-8924 to district court because the time for the Department to act on an appeal had expired. Phil expects the court to remand the matter back to IDWR for review and possible action. IDWR will hold the file pending judicial review.

While reviewing the right holder's petition, I had questions about two items. First, the licensed annual volume is based on data from a year after proof of beneficial use was submitted. IDWR normally issues licenses for the beneficial use that occurred before proof of beneficial use was submitted. Since proof of beneficial use was submitted in October of 2002, IDWR should have issued the license for the annual volume from 2001 or earlier.

Second, the right holder's petition refers to Water Right 95-7032, which appears to be appurtenant to some of the same land where this right was established. What is the disposition of Right 95-7032? Is it still being used, or has it been forfeited? If it is still being used, should an ownership change be submitted, and could the holder of Right 95-7032 transfer some of it to cover volume increases associated with the gas fired power plant?