

MEMORANDUM

Date: January 20, 2006

To: Dave Tuthill *DT*

From: Erin Retelle

Re: 37-07638

To File

SWKee

Norm Young contacted me today regarding permit 37-07638. He is anxious to have the permit licensed (it's also claimed in the SRBA).

Previously, I had sent an application for amendment adjusting the point of diversion to the pending new owners of the right. The application for amendment contains the conditions I drafted for the license. The applicant disagreed with the supplemental use conditions included on the amendment and crossed them out. Further investigation revealed that the point of diversion did not need to be amended and was correct on the permit after all.

IDWR then received correspondence from the applicants' attorney, Jo Beeman, urging the Department not to issue the license as a supplemental use. The application was filed as a supplemental use and the permit approved that way. Proof of Beneficial Use was filed and a field exam conducted. The field examiner verified supplemental use. Later, a second field exam was conducted, and it was found that the surface water rights were sold and removed sometime after the Proof of Beneficial use was filed and after the first field exam was conducted.

I drafted the license with the supplemental use conditions intact because there is no justification for enlarging the right to be a primary use when it was developed and verified by the field examiner as supplemental. The applicant has provided no further information about the water use during the authorized development period that indicates the groundwater was used as the primary source of water.