

MEMORANDUM

DATE: May 13, 1997

TO: Jim Johnson

FROM: Shelley W. Keen *SWK*

RE: Southwest Irrigation District amendments

Sharla forwarded these files to me with the idea that we could use the amendments as licensing amendments because the field exams have been done. Therefore, I have had an opportunity to review them and discuss them with Norm. ✓

Norm and I discussed two items -- the annual volume ✓ and the season of use change. ✓ To avoid an expansion question related to the change in season of use, Norm recommended using a "permissible season of use" for a limited number of days within the entire year. The number of days should be based upon the number of days in the season of use on the original permit. As for the annual volume, Norm acknowledged that we would face opposition if we limit the volume to what was actually diverted and injected in 1995. ✓ However, he was not comfortable with any other method of estimating an annual volume. Therefore, when we issue the license he thinks we should be silent about the annual volume. ✓

There is a 1989 priority application for Dry Creek that could potentially be injured by the change in season. Allen Merritt recommended advancing the priorities to avoid injury, but we do not have a provision in the code for doing so. Should we address this somehow?

I recommend that we do not treat these as licensing amendments. Instead, I recommend approving the amendments as preliminary orders. If the permit holder objects to the "permissible season of use", the appeal process can be pursued while the rights are still in the permit stage. Once the order becomes final, we can issue the license.

One amendment application will need to be changed to reflect the points of diversion and places of use that were actually developed. Otherwise, it will have to be amended again before a license can be issued. I do not think it will need to be re-advertised for the same reason that we do not advertise licensing amendments.