

MEMORANDUM

TO: FILE 13-7649

FROM: KAY WALKER

RE: Review of Mitigation Proposal

Date: April 5, 2005

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I have reviewed the mitigation plan submitted in connection with Application for Permit 13-7649 and have prepared a draft permit that contains the mitigation approval language.

The plan indicates that mitigation water will be provided utilizing Right 13-2164 and 20 shares of West Cache Irrigation Company water. I do not understand why both rights are being included when it appears that Rt. 13-2164 would compensate for the consumptive use of 13-7649 on its own. In memo from Keith Wilson it is noted that West Cache felt that 13-2164 reduced their available water the equivalent of 20 shares. Water Rt. 13-2164 was not considered in the agreement (by water right number) between the parties involved in this matter, so Keith used it to follow the Bear River Plan for mitigation.

Rt. 13-2164 was issued for the irrigation of 80 acres from an unnamed stream (spring) tributary to Deep Creek. The licensed amount under this right is just short of $\frac{1}{2}$ inch per acre ($0.76 \text{ cfs for } 80 \text{ acres} = 0.0095 \text{ cfs per acre}$) and there was no volume indicated. If we do the math, this right could be determined to allow 280 afa for the 80 acres licensed ($3.5 \text{ afa} \times 80 \text{ acres} = 280 \text{ afa}$) vs. ($0.76 \text{ cfs} \times 1.9835 \times 214 \text{ days} = 322.6 \text{ afa}$).

Right 13-7629 is appurtenant to 82.6 acres within a 128.8-acre place of use that overlaps the proposed place of use under 13-7649. Rt. 13-7629 is for 1.09 cfs (which would be 0.013 cfs per acre) and 289.1 afa (which would provide 3.5 af per acre).

Application 13-7649 proposes irrigation of 73.9 acres within a 148.8-acre place of use. The agreement dated 2/6/2004, between the protestants and the applicant, states the applicant is to be limited to a diversion volume of 258.7 afa (3.5 af per acre). They have also agreed that this right be limited to a total diversion rate of 1.0 cfs (0.014 cfs per acre) and irrigation of only 73.9 "new" acres. This application was filed to add some of the corners and cover all the lands that the pivot can irrigate.