

Walker, Kay

From: Wilson, Keith
Sent: Monday, January 24, 2005 5:00 PM
To: Walker, Kay
Subject: RE: Application 13-7649 & Mitigation Plan

Kay,
Here is my attempt to answer your questions:

1. Are Rights 13-2164 and West Cache (20 shares) the same water or different water? (My guess is that 13-2164 is the spring water that they discuss and the West Cache water is under Twin Lakes Canal Co. name.) In review with Shelley this morning we could not find anything that specifically mentioned they were separate rights.

It appears that 13-2164 is a separate water right from the West Cache Shares. It appears that West Cache felt that 13-2164 reduced their water the equivalent of 20 Shares. The agreement between J-7 and Scottish Power seems to bear this out. Water right 13-2164 was not considered in the agreement. I used 13-2164 as a requirement that appeared to follow the Bear River Plan for mitigation.

2. What do we know about the historical use of water under West Cache & 13-2164? Will it provide enough consumptive use to offset the new use?

According to the agreement between J-7 and Scottish Power: (1)J-7 has retained shares in West Cache. (2) the diversion works (i.e. dam) still exist & the place of use appears to have been irrigated. Therefore, the historical use of West Cache water & 13-2164 does not appear to be a problem.

3. What do you know about the relationship between the new application and Rt. 13-7629?

Right 13-7629 and this application (13-7649) are for some of the same acreage under this pivot. This application also adds some of the corners.

4. Will the Canal Co. be willing to file a transfer to change those 20 shares of water to mitigation? The agreement in file shows they agreed to allow those shares to become mitigation water; however, we will require a transfer be filed to change the nature of use on those shares before we will approve the application for permit. We can change the use on 13-2164 by way of conditions on the permit, when issued, but cannot do that to the canal water. We tried to make conditions allowing us to require the transfer on canal water but it was not successful in the past so we have to have a transfer from canal company before we can proceed.

Good question. Since 13-2164 has sufficient water to offset any depletion, is there any reason that West Cache should be required to change the use to mitigation since all J-7 has to do is to maintain shares in the company to offset any protest (West Cache or Scottish Power)? It appears to me that by requiring J-7 to maintain shares the department is only adding a condition in compliance to the agreement between J-7, Scottish Power & West Cache. The department always wants the applicant & protestant to get together without the department to come to an agreement to withdraw any protests, so why not agree with their arrangement? Also note:

West Cache Irrigation Co. required Carl Mortensen to maintain 20 shares of West Cache Irrigation Co.
20 shares of West Cache Irrigation Co. water = 75.9 afa

$(36 \text{ min/share})(20 \text{ shares}) = 720 \text{ min/wk}$ $2.5 \text{ cfs} = 1122 \text{ gpm}$
 $(1122 \text{ g/m})(720 \text{ min/wk}) = 807,840.0 \text{ g/wk}$ $214 \text{ days} = 30.6 \text{ weeks}$
 $(807,840.0 \text{ g/wk})(30.6 \text{ wk/yr}) = 27,719,904 \text{ gal/yr} = 75.8628 \text{ af/yr} = 21.7 \text{ acres}$

Would irrigated 21.7 acres.

License 13-2164: Volume calculations limited to the irrigation requirement of 3.5 afa or 280.0 afa.

[80 ac x 3.5 af = 280.0 afa.]

Diversion rate volume [(0.76 cfs)(1.9835)(214 days)] = 322.6 afa.

Even though West Cache Irrigation Co limited Mr. Mortensen to 75.9 afa, License 13-2164 would normally be limited to 280.0 afa.

Hopefully this will assist you.

Keith

-----Original Message-----

From: Walker, Kay
Sent: Thursday, January 20, 2005 1:17 PM
To: Wilson, Keith
Cc: Walker, Kay
Subject: Application 13-7649 & Mitigation Plan

Keith: Made my memo in word so you will find it attached below. Please respond to the questions in the memo and send answers back to me. Thanks. Kay << File: App 13-7649 info request .doc >>