

Keen, Shelley

To File 63-12323

To: info@spfwater.com
Cc: Lester, Steve; Shurte, Jan
Subject: For Terry Scanlan -- Use of 63-31497 as mitigation for 63-12323 (Kiff)

Terry,

I am responding to the question you sent Steve Lester about changing the place of use of the Kiff mitigation right to the Kiff property.

As you know, IDWR's ideas about recording mitigation have been evolving for several years. When the Kiff permit was processed in 2001, IDWR was not requiring changes to the mitigation rights other than the ownership change. Then, for a brief time IDWR was requiring transfers to change the nature of use of all mitigation rights. Today, if the mitigation will occur through non-use of the mitigation right, IDWR will issue the permit with a condition that the nature of use of the mitigation right will be changed in the water rights database. IDWR believes it can do this without a transfer application because non-use of the right for mitigation purposes is not really a change in use. If the right holder disagrees with the change in nature of use on the mitigation right, he or she can petition for reconsideration of the permit approval.

IDWR is not requiring that the right holder change the place of use for the mitigation right. However, if the right holder wants to change the place of use on the mitigation right, he or she can file an application for transfer. The advantages of the change would be a clearer indication of the ownership of the right and an obvious link to the permit which it mitigates.

In the Kiffs' situation, IDWR will probably change the nature of use of the mitigation right (SRBA claim) when it issues a water right license for the permit. If the Kiffs want to change the place of use for the mitigation right to their property, they should file an application for transfer.

Please call if you want to talk it over some more.

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