

MEMORANDUM

TO: File(s) 37-20570, 37-20577 & 37-20593

FROM: Pam Skaggs

SUBJECT: 70140 Enlargement Concerns

DATE: April 15, 2004

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The previous set of transfers divided the surface rights to specific points of diversion & places of use. Transfer 5553 limited these rights to a 396-acre place of use under Dittoe Ditch, and Transfer 5551 limited rights to a 271-acre place of use under Baseline Canal. Transfer 70140 will retain these combined right acre limits.

This transfer proposes to add back the Baseline Canal as an alternate point of diversion under the "Dittoe diversion" rights & allow use within the same 591-acre place of use as described for groundwater rights under Transfer 5563. The "Baseline Canal" rights listed on Transfer 5551 are not modified through this transfer & will remain limited to a specific 271 acres (235 overlapping acres in the 591 acre parcel. 36 acres are outside the place of use in the NENW Section 36 that was intended to be sold. A favorable Watermaster comment for Transfer 70140 was received on 8-12-2003.

Jim Stanton's memo of 12-08-2003 identifies a possible enlargement situation where the Dittoe Ditch rights could be used for a longer period and on more acres. Jim concludes that since the early Dittoe rights are used continuously anyway, enlargement would not occur.

If the Dittoe rights are not limited to the original number of acres within the permissible place of use, then enlargement could occur due to irrigation of additional acres that would normally be short in water supply. The transfer approval should limit the use of the rights to the original 396 acres to prevent enlargement. The transfer will allow the right holder to choose which 396 acres within the permissible place of use can continue to be irrigated after the later priority rights are curtailed.