

From: Kerry Carpenter
To: Jerry Olds
Date: 1/22/02 9:41AM
Subject: VRRMRP Flow Test on Santa Clara

Jerry:

I have spoken again to Steve Meisner of the Virgin River Resource Management & Recovery Program (VRRMRP) regarding the referenced instream flow test. As I told you earlier, we have authorized the drilling of a number of piezometer sites (10) along the stream channel (see 02-81-002-M). As I understand the plan, once the piezo's are in place and equipped with monitoring apparatus, a flow of water (3-10 cfs, I understand) is to be released into the stream channel from Gunlock Reservoir. The piezo's will be used to measure the amount of flow lost to the SGC Gunlock Well Field and to the soils/bedrock underlying the channel. The area of interest appears to primarily be from the reservoir to the Windsor Dam. It appears that they want to conduct the test during the season when the vegetation is dormant so they can better determine the channel losses solely attributable to geologic factors. I presume they will understand the SGC well field will also be somewhat dormant as well.

Steve faxed me a copy of the "lease" with the Shivwits Band in which VRRMRP is to pay a flat fee of \$10,000 in exchange for the right to "utilize the Shivwits Band's water rights. . . ." The lease clearly identifies the right as being "1.38 cfs or approximately 500 acre feet per year" (81-2313, 2425).

I explained to Steve that we admittedly don't know as much as we'd like to about the proposed study, but that I had at least three concerns related to appropriation and distribution issues that they I believe they should investigate:

1. With the Band's water right limited to 1.38 cfs, they will have some trouble justifying the 3-10 cfs flows that they want to release for their study.
2. With the proposed release of water that will then be lost to any future use on the Santa Clara Creek, the Band should understand that they will have "used" their water right (or some measured part of it) and should not plan on having use of that portion when the normal irrigation season arrives.
3. Because the Band owns no storage rights in Gunlock, there may be a problem justifying a release of stored water under the Band's water right. This is shaping up to be a dry year and the water users who do own storage rights in Gunlock are not likely to be happy with turning loose water they believe is theirs. I suggested that his group and/or WCWCD should be sure the Gunlock users have been properly consulted.

I'm still kind of struggling with the whole concept of the planned test and whether some kind of change application should be filed. I'm supposing that they could assert that the year-around period of use of the Band's right justifies a call to "pass through" the stream flow into Gunlock, but I doubt that there's a very substantial flow coming in and that they could call on more than 1.38 cfs even if there is that much.

I suggested that he discuss these concerns with Ron Thompson and Barbara Hjelle.

I'll fax you a copy of the "lease" so you can see what it amounts to. I'll keep my opinion to myself.

Kerry

PS: I'd cc: this to the new SE, but I think that would be a duplication of effort. If you catch my drift. . .

CC: Kent Jones; Lee Sim