

## ADJUDICATION MEMO #46

TO: Adjudication Staff  
FROM: Dave Tuthill  
DATE: Updated March 1, 2002

Approved by: NCY

RE: Claims For Purposes of Use Other Than Wildlife Based Upon "D-Permits"

Questions have arisen recently concerning recommendations for claims based on "D-Permits." Specifically, many "D-Permits" upon which these claims are based include purposes of use other than stockwater even though § 42-501, the statute upon which "D-Permits" are based, specifically limits the purpose of use to stockwater. Most commonly, uses for wildlife, firefighting, and domestic purposes appear on the permits. The Department will not recommend "D-Permit" claims in the SRBA for uses other than stockwater. However, the holders of "D-Permits" containing purposes of use other than stockwater may have acquired a beneficial use right for the other listed purposes of use, and the Department will recommend a separate split right for these other purposes of use according to the following guidelines:

1. Stockwater is the only purpose of use that will be recommended for "D-Permit" claims.
2. Any purpose of use other than stockwater will be recommended as a beneficial use claim.
3. Where a claim based upon a "D-Permit" contains stockwater in addition to another purpose of use, the claim will be split into two separate recommendations.
  - The first split right will be for the stockwater purpose of use. The elements of the water right should be recommended as they appear on the permit.
  - The second split right will be for the other purposes of use with elements of the right identical to the first split right recommendation, with the exception of purpose of use and basis of claim. The basis of claim for the second split right will be beneficial use.
4. When a split is created, each recommendation should contain a standard combined diversion remark which limits the quantity used (diversion rate or storage volume) to the quantity shown on the face of the "D permit." (ie. Use of this right with right number \_\_\_\_\_ is limited to a total combined diversion rate of \_\_\_\_\_ cfs).