

9-27-12 - PETROS & WHITE, LLC DRAFT

37-92-305. Standards with respect to rulings of the referee and decisions of the

water judge. (4) (a) Terms and conditions to prevent injury as specified in subsection (3) of this section may include:

(I) (A) A limitation on the use of the water that is subject to the change, taking into consideration the historical use and the flexibility required by annual climatic differences.

(B) FOR PURPOSES OF ADMINISTRATION AND DETERMINING LAWFUL HISTORICAL CONSUMPTIVE USE, IF A DECREE ENTERED ON OR BEFORE JANUARY-DECEMBER 31, 1938, ESTABLISHES AN IRRIGATION WATER RIGHT AND DOES NOT EXPRESSLY LIMIT THE NUMBER AND/OR LOCATION OF ACRES THAT THE APPROPRIATOR MAY IRRIGATE UNDER THE WATER RIGHT, AND THE NUMBER AND/OR LOCATION OF ACRES TO BE IRRIGATED IS NOT OTHERWISE EXPRESSLY STATED IN THE STATEMENT OF CLAIM, TRANSCRIPT, REFEREE'S RULING, OR OTHER EVIDENCE IN THE ADJUDICATION RECORD, THE LAWFUL MAXIMUM AMOUNT AND/OR LOCATION OF IRRIGATED ACREAGE EQUALS THE MAXIMUM AMOUNT AND/OR LOCATION OF ACREAGE IRRIGATED PRIOR TO OR DURING THE FIRST ~~SIXTY~~FIFTY YEARS AFTER ENTRY OF THE ORIGINAL DECREE, UNLESS A COURT OF COMPETENT JURISDICTION HAS, PRIOR TO JANUARY 1, 2013, ENTERED AN FINAL JUDGMENT ~~ORDER~~ TO THE CONTRARY.