

MEMORANDUM

8DEC03

To: The files

From: A. Ruberry

Subject: 22-00634, 22-12528, and 22-00637

Today, Mr. Dallas Leavitt and son were in to inquire into their neighbor's (Mike Birch) suggestion that they come to IDWR and file for a portion of Mr. Birch's water right (22-00634) because Mr. Birch has too much water for his property. Apparently, Mr. Birch did not know Mr. Leavitt had filed a claim in the SRBA. Investigation reveals that Mr. Leavitt filed a claim to a water right in the SRBA under 22-12528. A comparison of water right claims 22-00624 and 22-12528 shows that they both have the same priority date but are for totally different lands. In addition, both have more water right than there are acres to support the quantity, which exceeds §42-202 and §42-220 IC. Suspect more research of the decree is needed here.

Further research of the water right database reveals that the elements of 22-12528 are the same as those of 22-00637 in all respects. The SRBA claim of 22-12528 should be renumbered to 22-00637. The chain of title, as illustrated by ownership of 22-00637 (water right database), was confirmed by Mr. Leavitt's discussion. Apparently, Mr. Birch's father once owned the lands now owned by Mr. Leavitt. Which is where Mr. Birch feels that Leavitt's should have a part of 22-00634, but not the case.

Mr. Leavitt and son were advised that filing for a portion of 22-00634 would gain nothing, that since the priority dates are the same both rights would be cut at the same time and their current claim 22-12528 has more water right quantity than acres anyway. They feel they understand the dilemma and that no part of 22-00634 is appurtenant to their lands.

It was mentioned that 22-12528 would in all likelihood be renumbered to 22-00637 to continue with the original decree number.