

9-15-08

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Department of Water Resources
Eastern Region

To: Nate Arave IDWR

From: Mel Domko 752 Lemhi Road Salmon, Id 83467, 208-756-6968

Subject: Water rights and usage

While talking to Bob Foster I touched on whether Dean Stokes was in violation of the law. I pointed out the defraud situation that I had previously mentioned to you. Foster replied by pointing out statute 42-1425. He said that Stokes was covered under this statute. He added that there was a statute of limitations. I advised him that it was an on - going situation. Therefore, the statute of limitations did not apply.

Since I had not been previously informed of 42-1425, I read the statute. The statute on its face appears to vindicate Stokes of any reporting responsibilities. However, in reading section C-2 I see that it addresses the enlargement of the original right. Aside from this, one would think that Stokes would have thought to make an official transfer with the IDWR. This is in view of the fact that the IDWR was a newly formed agency. In the period of twenty years it is unrealistic to think that he merely forgot. Unless there were underlying (IDWR) reasons that would not allow him to do so. Dean Stokes, Boyd Stokes, and Dale Jolley are lifetime members of the Lemhi area. I suspect that they are well versed on the issue of water rights. (Has 42-1425 ever been tested in court?)

I also read 42-1426 dealing with enlargements. Section B-2 addresses the issue. It states that the rate of diversion shall not exceed the original water right. The Barracks Lane sub-division consists of approximately 40 acres. The question that arises is where was this water used? Did the Jolley Ranch enlarge the land it irrigates or was it simply used on their existing acreage? The use of 40 acres of water rights over 20 years is a lot of water. Where it was used needs to be answered and was it legal? Again, it would be reasonable to expect that a transfer notice to the IDWR be instituted. This is not a matter of oversight on a couple of acres.

There are two water rights issued to the Barracks Lane sub-division. One is to Mindy & Vince Tracy and another to Sydney Cook and his wife. Cook has had his water rights for approximately 3 years. How was he able to obtain his water rights? Cook is in the same sub-division. When Stokes deeded the land to Dave Freel there was no exception noted for Cook's water rights. It appears that the question of equal treatment of the other land owners water rights needs to be addressed.

Respectfully Mel Domko

A handwritten signature in black ink that reads "Mel Domko". The signature is written in a cursive style with a long horizontal flourish at the end.