

From: [Saxton, Craig](#)
To: [Miller, Nick](#)
Cc: [Brandi Horton-Bonner](#)
Subject: RE: Water Right Condition of Approval Question
Date: Wednesday, February 16, 2022 4:29:00 PM
Attachments: [67-4023 v2 \(1-20-09\).pdf](#)

Hey,

Well, I can't seem to find documentation as to why it is there. But I think it was intentional.

If I were to guess I would say it is the result of an agreement between the parties that I neglected to document. Prior to the SRBA, 67-11763 ("Little"), which is a combination of two licenses (67-2382 and 67-2383), was the Sr. right on North Crane Creek. Then the SRBA rolls around and 67-4023 ("Phipps") is claimed based on a Posted Notice dating back to 1884 and becomes the Sr. right on North Crane Creek.

In my brain, it seems to me that when these were being worked out, Phipps agreed that Little had the Sr. right. I can't find anything that confirms that. There were no objections to the condition or that would result in adding the condition. Actually, if you look at the recommendation record in the database for 67-4023, it does contain the subordination condition and I have copies of recommendations for 67-4023 on my hard drive that have the condition (attached), but to be fair, I don't know if that was added after the motion to set aside the original partial decree disallowing 67-4023.

If there was an understanding, adding the condition would allow Little to maintain the Sr. right, but also protect Phipps from being subject to a call downstream from Crane Creek users that might be Jr. to 1884.

I have looked everywhere I can think of to try to document that change. Even though I can't find it, I see that there have been several splits and a transfer that carried the subordination condition through the processes. I don't see anything to tell us to add that condition, but I also don't see anything that challenges it either.

I will let it simmer and see if anything else comes to mind.

I know that isn't the best answer, but that is all I have for now.

Sorry,
Craig

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Sent: Wednesday, February 16, 2022 11:46 AM
To: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Cc: Brandi Horton-Bonner <watermaster67@hotmail.com>
Subject: FW: Water Right Condition of Approval Question

Craig,

Brandi is asking about a condition on children of 67-4023 that subordinates the 1884 use to a 1918 use. I do not see any explanation in the backfiles as to why they got that condition, but I see your name throughout the files, so I thought maybe you might have some insight or can point me in the right direction of where to look for an explanation. The parent right 67-4023 was claimed in the SRBA and also had a statutory claim filed back in the 1970s, I think. That parent right didn't have any conditions of subordination. The parent right 67-4023 was decreed disallowed, then a late objection was filed with the SRBA that resulted in 67-4023 being split into 67-15005 and 67-15006. 67-4023 was again decreed disallowed, and the two children were decreed with the subordination condition. I don't see any evidence that the motion was objected to and I don't see any explanation for the subordination in the files.

Any idea why 67-4023's offspring got that condition?

Thanks,

Nick.

From: Brandi Horton-Bonner <watermaster67@hotmail.com>

Sent: Tuesday, February 15, 2022 6:29 PM

To: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Subject: Water Right Condition of Approval Question

Hi Nick,

I got a call today from a new landowner with a question about his newly acquired water rights that I couldn't answer. And I haven't found the answer in any of the documents attached to the rights. Here's the situation:

Dwayne Ellis purchased property on North Crane Creek in Midvale. His water rights are 67-15423 & 67-15424. Each has a priority date of 1884. One of the conditions for both rights states "Pursuant to a call in times of scarcity, this right is junior to Water Right No. 67-11763."

I looked up 67-11763. It has a priority date of 1918. I can't find any information on why or how this became a condition of approval for a senior right to be considered junior. It has me baffled and the new owner of the 1884 rights concerned.

I don't know who in the IDWR could answer this...if not you, would you please forward this email to someone who can?

Thanks so much,

Brandi Horton-Bonner

Watermaster-Dist.67
2297 Snapp Lane
Midvale, ID 83645
(208) 550-0313

01/20/2009

IDAHO DEPARTMENT OF WATER RESOURCES

Draft RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 67-4023

NAME AND ADDRESS: WILLIAM C PHIPPS
1731 N CRANE RD
MIDVALE ID 83645

SOURCE: NORTH CRANE CREEK

TRIBUTARY: CRANE CREEK

QUANTITY: 1.590 CFS

PRIORITY DATE: 02/18/1884

Pursuant to a call in times of scarcity, this right is junior to Water Right No. 67-11763

POINT OF DIVERSION:

T12N R01W S3 NWSW Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 10/31	1.590 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T12N R01W S03	NESW	35.00	T12N R01W S03	NWSW	26.00
T12N R01W S03	SWSW	0.20	T12N R01W S03	SESW	15.00
T12N R01W S04	NESE	3.20			

79.4 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The portion of Right 67-4023 used for conveyance losses is 0.41 cfs.