

Cefalo, James

From: Cefalo, James
Sent: Monday, November 30, 2020 12:25 PM
To: 'Matea McCray'
Cc: 'Rob Harris'; 'Luke Marchant'; 'James Speck'; why@atcnet.net; 'rooneysmom2@hotmail.com'; 'lenard_vaneps@yahoo.com'
Subject: RE: Sunset Transfer Discovery Requests (Transfer No. 83745)

Ms. McCray:

Thank you for providing the certificates of service for the discovery requests sent to Sunset and Sorensen. At this point, I only need a copy of the certificates of service. The hearing officer does not get involved in the substance of discovery unless there is a dispute about the requests or responses.

Your email includes five requests for information/analysis from the Department. The Department is not a party to this case and is not subject to discovery requests. Keeping that in mind, I want to provide some guidance on each of your requests.

- 1) Information about the Snake River Basin Adjudication can be found at <http://srba.idaho.gov/SRBA1.HTM>. The Final Unified Decree describes some of the background for the SRBA. Administrative Order #1 sets for the rules of procedure for the SRBA.
- 2) The United States Department of Agriculture (USDA) is a federal agency, separate from the Department of Water Resources. If you need to confirm data collected by or reports prepared by the USDA, you may want to reach out to the local FSA office. If you want the USDA irrigation summaries to be included in the administrative record for this case, you will need to offer those documents as exhibits at the hearing.
- 3) TP-34-26 is a drought emergency transfer filed by Merideth J Dotzenrod in 2003. I think you might have the wrong application number. Sunset Farm & Ranch LLC filed a number of drought emergency transfer applications in 2020. Perhaps you are referring to one of the 2020 drought emergency transfers. The Sunset applications were assigned number TC-34-168 (denied), TC-34-169 (approved 6/18/20), TC-34-171 (approved 6/18/20), and TC-34-172 (approved 6/18/20). If you want one or all of these applications to be included in the administrative record for the Sunset case, you will need to offer those documents as exhibits at the hearing.
- 4) Each party to a contested case is responsible for collecting the information needed to present their case at the administrative hearing. Often, parties use experts or attorneys to investigate the history of water rights, collect information, analyze water rights, and summarize diversion data. The information you request is available on the Department's website using the water right search tool. It is not the Department's job to prepare your case.
- 5) Same response as (4).

Please remember, the scheduling orders for both cases include a deadline for disclosure of witnesses and exhibits. Proposed exhibits and a list of potential witnesses must be provided to the hearing officer and the other parties two weeks prior to the hearing. Also, moving forward, please refrain from sending me emails about substantive issues without copying the other parties on the email. I have included the other parties (who have provided email addresses) on this repose email so they are aware of your initial request.

James Cefalo

From: Matea McCray [mailto:mateamccray@gmail.com]
Sent: Monday, November 30, 2020 6:57 AM

To: Cefalo, James <James.Cefalo@idwr.idaho.gov>; Henman, Christina <Christina.Henman@idwr.idaho.gov>
Subject: Fwd: Sunset Transfer Discovery Requests (Transfer No. 83745)

Dear Mr. Cefalo:

Please see the included set of Interrogatories that I sent to Mr. Harris (Sunset) and Mr. Marchant (Sorenson) on November 18th, 2020 concerning our original protests on both the Sorensen (84270) and Sunset (83745) water transfers. In addition to this email, I carried a copy of each over to their office and personally delivered them to Kendra (their receptionist) at the front desk of Mr. Harris and Mr. Marchants office on November 18, 2020. With this email, I am requesting the following information that I will need for both of these hearings from Idaho Department of Water Resources (IDWR):

- 1) Please ~~provide the original mission statement that was used to set up the Water Adjudication Court for the~~ State of Idaho that defined how Idaho's Water Court was conceived to be a court where the average person/farmer could walk in and present their case on water issues directly to a water judge. Please add this to your list of documents available to all participants for each of these transfer requests.
- 2) Please verify (or provide the correct data for) the following information (attached below) which is sourced as follows and add these two jpegs to the available document list for all participants for each of these transfer requests: Big Lost River watershed; the info was generated via USDA census data that is taken every 5-years: 1) Acres irrigated jpeg and 2) Irrigated Acres jpeg
- 3) Please add the entire final package (including all of the letters from participants) for TP-34-26, dated March 2, 2020 to your list of documents available to all participants for each of these transfer requests.
- 4) For every piece of land (separately) owned by Ms. Sorensen today, please identify the total number of irrigated acres as well as the total number of inches of water under each water right that was originally filed in the 1980's-1990's (for each/that piece of property) under the original adjudication applications to the Idaho Water Adjudication Court. Please also identify the current irrigated acres for each property and the total number of inches of water (by each water right) now watering each piece of land owned by Ms. Sorensen. If there is a change in water right in terms of the number of inches of water for each property, please identify where the additional original water right originated from (by name and property location). Additionally, please identify any surface water rights that had an accompanying groundwater right that was originally a supplemental groundwater right for the surface water right for each piece of land. Please add this to your list of documents available to all participants for transfer request 84270.
- 5) For every piece of land (separately) owned by Sunset Farm and Ranch, LLC today, please identify the total number of irrigated acres as well as the total number of inches of water (by individual water right) that was originally filed in the 1980's-1990's (for each/that piece of property) with the original adjudication applications to the Idaho Water Adjudication Court. Please also identify the current irrigated acres for each property (piece of land) and the total number of inches of water (by each water right) now watering each piece of land owned by Sunset Farm and Ranch, LLC. If there is a change in water right in terms of the number of inches of water for each property, please identify where the additional original water right originated from (by name and property location). Additionally, please identify any surface water rights that had an accompanying groundwater right that was originally a supplemental groundwater right to that/those surface water right(s) for each piece of land. Please add this to your list of documents available to all participants for transfer request 83745.
- 6) For items 4 and 5 above, I visualize an excel spreadsheet for each applicant as being the best way to organize/optimize the data in a way to make the information easy to read.

I appreciate the IDWR providing this information for use in the scheduled hearings associated with these transfer requests. If there are protocols concerning water right protests that prevent IDWR from having to provide any of this requested information above, please consider this a Freedom Of Information (FOI) Request, as I consider all of the information above as critical to both of our protests of the subject transfer applications (#84270 and #83745).

Thank You very much,

Matea McCray
3470 Cobblestone Ln.
Idaho Falls, Idaho 83404

----- Forwarded message -----

From: **Matea McCray** <mateamccray@gmail.com>
Date: Wed, Nov 18, 2020 at 2:55 PM
Subject: Re: Sunset Transfer Discovery Requests (Transfer No. 83745)
To: Rob Harris <rharris@holdenlegal.com>, <lmarchant@holdenlegal.com>

Please note I hand carried an original signed copy of the Huggins Interrogatories to Kendra at your front desk. She said she would deliver these to you.

Thank You, Matea

On Mon, Nov 16, 2020 at 4:17 PM Rob Harris <rharris@holdenlegal.com> wrote:

Ms. McCray:

Please see the attached discovery documents associated with Sunset's Transfer No. 83745. Copies are also being sent by regular mail.

Thanks,



Robert L. Harris

HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

1000 Riverwalk Drive, Suite 200

P.O. Box 50130

Idaho Falls, ID 83405-0130

Phone: (208) 523-0620

Fax: (208) 523-9518

E-Mail: rharris@holdenlegal.com