

Inouye, Allison

From: Yenter, Cindy
Sent: Friday, June 01, 2018 11:57 AM
To: Inouye, Allison
Cc: cphilps@idfbins.com; Walker, Benny; Maline, Denise; Blades, Emmi
Subject: RE: Wisner Transfer 82316

Allison, Bonnie Haeberle will be in my office today to file a protest against this transfer. She indicated that the property was under contract on March 2, before the first quitclaim was executed. The seller did not disclose that he was selling a portion of the appurtenant rights. Even though water rights are not conveyed by real estate sales agreements, there may be some disclosure issues here that are beyond IDWR's scope, but which might still affect transfer processing.

Mrs. Haeberle is going to bring me a copy of the sales contract. I will ask for legal review. Even if the transfer is not protested I think we need to hold processing until we get a legal opinion on this.

Cindy

From: Inouye, Allison
Sent: Friday, June 01, 2018 11:23 AM
To: Yenter, Cindy <Cindy.Yenter@idwr.idaho.gov>
Cc: cphilps@idfbins.com; Walker, Benny <Benny.Walker@idwr.idaho.gov>
Subject: RE: Wisner Transfer 82316

Hi Cindy Yenter & Cindy Philps,
Benny and I reviewed the deeds that we have here and put together this timeline:

- Originally, Water Right 72-6D was for 0.16 cfs and 2.6 acres
- 3/14/18 Swigert quitclaimed ½ acre of 72-6D to Wisners
- 3/26/18 the quitclaim deed was revised but appears to have had the same intent as the original deed
- 3/29/18 IDWR processed an ownership change split which resulted in:
 - 72-6D 0.13 cfs and 2.1 ac (Swigert)
 - 72-16935 0.03 cfs and 0.5 ac (Wisner)
- 4/10/18 warranty deed conveying Swigert property with appurtenances to Haeberle
- 4/24/18 IDWR processed an ownership change for 72-6D into the name of Haeberle

Based on my review of the deeds, it appears that Swigert sold the ½ acre portion to Wisner before he sold the property and the remaining 72-6D water right to Haeberle. Therefore, I feel comfortable proceeding with the transfer proposed by Wisner to move 72-16935 to his property.

I've scanned and attached the deeds here. Please let me know if you have any concerns or want to further discuss the matter.

Thanks,
Allison

Allison Inouye
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From: Yenter, Cindy
Sent: Friday, June 01, 2018 9:35 AM
To: Inouye, Allison <Allison.Inouye@idwr.idaho.gov>
Cc: Walker, Benny <Benny.Walker@idwr.idaho.gov>
Subject: Wisner Transfer 82316

Allison – I can provide you a supplemental watermaster statement for the file.

The Watermaster of WD72A contacted me by phone to inform me that the Swigert property may have been sold before the execution of the quitclaim deed between Swigert and Wisner to convey ½ acre of water right 72-6D to Wisner. The new owner of the Swigert property is Haeberle. WD72A is attempting to get a copy of the Haeberle warranty deed to send to your office. You might be able to acquire this document directly from Custer County.

If the initial Swigert-Wisner quitclaim deed does not pre-date the warranty deed to Haeberle, and if the warranty deed does not withhold the ½ acre portion of 72-6D, then Swigert had no legal right to convey the right to Wisner and transfer must be denied.

Cindy Yenter
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