

Cefalo, James

From: Cefalo, James
Sent: Tuesday, May 02, 2017 10:01 AM
To: 'Jerry Rigby'; Roger Warner (rwarner@rockymountainenvironmental.com); 'Kristin Moore'; 'Vonde, Ann'; 'john@jmarshalllaw.com'; 'Spencer, Steven M -FS'
Subject: RE: Application 81352 - Additional Items

Dear Parties,

We retrieved the adjudication claim file for water right 21-11478 from the state records office. The file has been scanned and can be found at the following link:

<http://www.idwr.idaho.gov/apps/ExtSearch/RelatedDocs.asp?Basin=21&Sequence=11478&SplitSuffix>

As you can see there is not much in the file. It is unclear whether this water right was intended to cover the same domestic use described in water rights 21-4071 and 21-4071A.

James

From: Cefalo, James
Sent: Friday, April 21, 2017 11:55 AM
To: 'Jerry Rigby' <jrigby@rex-law.com>; Roger Warner (rwarner@rockymountainenvironmental.com) <rwarner@rockymountainenvironmental.com>; 'Kristin Moore' <kristin.rmea@gmail.com>; 'Vonde, Ann' <ann.vonde@ag.idaho.gov>; 'john@jmarshalllaw.com' <john@jmarshalllaw.com>; 'Spencer, Steven M -FS' <sspencer@fs.fed.us>
Subject: Application 81352 - Additional Items

Dear Parties,

After our meeting yesterday, I spent some time reviewing the water rights in the area of the contested application. I discovered three additional items that you should be aware of:

1) Updated Map Point for Hagenbarth Rights

Mr. Hagenbarth's water rights from the upper spring (21-2054B, 21-12854, and 21-12939) describe the authorized point of diversion in the NWSESW, Sec. 6, T13N, R42E. Although the legal description for the point of diversion is correct, IDWR's map point was incorrect. The mapped point of diversion was shown in the NWSESW of Sec. 6, but was out on Sheridan Creek. The map provided with the original claims filed by Mr. Hagenbarth identified the location of the spring diversion at the head of the upper pond. I have updated our map shape for Mr. Hagenbarth's water rights to reflect the location of the spring point of diversion.

2) Different Legal Description for Water Right 21-2054C (Dept. of Lands)

It is my understanding that water right 21-2054C is diverted from the same spring and through the same ditch as the Hagenbarth water rights. The upper spring is located in the NWSESW of Sec. 6. However, water right 21-2054C describes the authorized point of diversion in the SWSESW of Sec. 6. The difference between the points of diversion for the Hagenbarth rights and water right 21-2054C seems to be based on different interpretation of where the spring water is actually diverted from the natural channel. The point of diversion for water right 21-2054C is located where water flows from the lower pond into the straight ditch. The point of diversion for the Hagenbarth rights is located where the upper spring flows into the upper pond. Because the ponds have been in place for so long, it may be impossible to know where the original spring channel was located. Therefore, it would be difficult to determine which of the two point of diversion options is correct or preferable.

3) Additional Domestic Water Right

Water rights 21-4071 and 21-4071A both describe diversion from a spring located in the SESWSW, Sec. 6, T13N, R41E. There is a third water right that might also be associated with the same spring. Water right 21-11478 bears a priority date of June 1, 1926 and authorizes the diversion of 0.02 cfs from a spring located in the SWSW, Sec. 6, T13N, R41E for domestic use in the same QQ. I cannot see any other buildings or infrastructure in the SWSW of Section 6 which would require domestic water. Water right 21-11478 bears an earlier priority date than water rights 21-4071 and 21-4071A, by one month. IDWR did not create a microfilm or digital copy of the SRBA claim file for water right 21-11478. We have requested the original claim file from the state records office and will provide a copy of that file to the parties when it arrives (in about one week).

I've attached water right reports for all of the water rights in the area of the contested case. I hope this information is useful.

James Cefalo
Water Resources Program Manager
IDWR Eastern Region
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