

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, April 20, 2016 9:47 AM
To: Case, Morgan
Cc: Cassel, Amy
Subject: RE: Abandonment of a water right subject to a conservation easement

Okay. Please keep us informed of the outcome. If we receive the deed and we don't receive a request to delay or withdraw the abandonment notice, we'll process it in 30 days.

Shelley

From: Case, Morgan
Sent: Wednesday, April 20, 2016 9:38 AM
To: Keen, Shelley
Subject: Re: Abandonment of a water right subject to a conservation easement

Yes. Thanks.

Morgan Case
Northern Regional Manager
Idaho Department of Water Resources
7600 N Mineral Dr. Suite 100
Coeur d'Alene, ID 83815
208.762.2800

On Apr 20, 2016, at 8:36 AM, Keen, Shelley <Shelley.Keen@idwr.idaho.gov> wrote:

Morgan,

We are going to ask Mr. Lewis for a copy of the deed demonstrating his ownership of the water right. Meanwhile, we can put the file on call-up to resume processing in 30 days. Will that be enough time for you?

Shelley

From: Case, Morgan
Sent: Wednesday, April 20, 2016 9:31 AM
To: Keen, Shelley
Cc: Cassel, Amy
Subject: RE: Abandonment of a water right subject to a conservation easement

Shelley,

This was one of those learning experiences. The Board purchased the easement from the Cheney's with the understanding that they owned all of the water right since it was in their name in IDWR records. It came to light a few years later that some of the POU had been sold off, but the water right had not been split. So we are on shaky ground here. The ideal situation would be to see if the landowner would be willing to quit claim the water right to the Board instead of abandoning the right. Abandonment would mean the water previously diverted under the right would be available for junior uses and the MSF is

way down on that list. If it could be donated to the Board, at least we could put it into the Rental Pool and rent it to the MSF. Would you be willing to hold the abandonment until we contact Mr. Lewis?

Morgan

From: Cassel, Amy
Sent: Wednesday, April 20, 2016 8:04 AM
To: Case, Morgan
Cc: Keen, Shelley
Subject: FW: Abandonment of a water right subject to a conservation easement

Morgan,

This appears to be the Cheney permanent subordination agreement from 2009. I see in the file there were some issues with him actually not owning some of the land appurtenant to the water right that the easement covered. It appears one of the split properties is now abandoning their water right. I'm not sure how this all shook out since it was before my time so can you respond to Shelley's inquiry and cc me?

Thanks,
Amy

From: Keen, Shelley
Sent: Wednesday, April 20, 2016 8:07 AM
To: Cassel, Amy
Subject: Abandonment of a water right subject to a conservation easement

Amy,

Water Right 74-15948 is a split of Right 74-15723, which was the subject of a conservation easement established in 2008. The other splits of Right 74-15723 are 74-15947 and 74-15991. Right 74-15948 is currently in the name of Michele Mattson. However, the county taxlot data shows David O. Lewis as the landowner. IDWR just received a notice of abandonment from David O. Lewis for Right 74-15948. Before it can be processed, we will have to ask him to provide a copy of his deed as evidence of ownership.

Meanwhile, how would the conservation easement be affected by the abandonment? Since the intent of the easement is to prevent the water right from being exercised under certain circumstances, does the transactions program care if the water right goes away? Or is there another expectation. I see that the conservation easement states, "Water authorized for diversion under water right no. 74-15723 and any subsequent splits shall remain appurtenant to the legal place of use described herein and shall not be subject to administrative actions to transfer or otherwise alienate the water from the land."

Thanks.

Shelley

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947