

Newbry, Ashley

From: Newbry, Ashley
Sent: Wednesday, August 19, 2015 1:56 PM
To: 'Ken Johnson'
Subject: RE: Tindall Water Right Info

Hello Ken,

1. Well, remember that the water right's place-of-use is on Warthen's property. So, Hoffman technically should not be using it in a different location. He could use it on Warthen's property, if he has permission from her, I suppose. (I think we're all doubtful of that occurring.)
2. Okay, I understand your story now. I had mistakenly thought that Tindall came before Hansen, but it sounds like that is not the case. Nonetheless, I believe that the Water Rights in question still belong to Tindall, but reside on Warthen's property because that is where they have historically been used. (This is the manner in which the SRBA Court decreed the water rights, so that is how they sit today – property of Tindall, used on Warthen's property.)
3. Yes, water rights can be valuable. It depends on how much particular parties agree to pay. In the Wood River Valley, water rights are very expensive (\$1000s per acre-foot) because there is a shortage and because there exists a greater ability to pay the high prices in that area. In other parts of the State, price would just vary based on what two parties agree to exchange. In the Idaho Water Resource Board's Water Supply Bank – where this originally started, because Pam wanted to apply to rent water from an upstream party on Canyon Creek – we charge \$20 per acre-foot of water.

Thanks,

Ashley Newbry

Associate Engineer

Water Rights Permits Section

Idaho Dept. of Water Resources

State Office

322 E. Front Street

PO Box 83720

Boise, ID 83720-0098

(208) 287-4800 X 4846



From: Ken Johnson [mailto:kjohnson@lfsidaho.com]
Sent: Wednesday, August 19, 2015 1:28 PM
To: Newbry, Ashley
Subject: RE: Tindall Water Right Info

Hi Ashley,

1. Can he leave this alone and allow Hoffman to continue to use it?
2. Lloyd Hansen sold Pam the property so Mr. Tindall was not part of this transaction. Hansen also sold Tindall the ranch. Hansen sold the land to Pam dry but she enjoyed water from Hansen and then Tindall's place with their blessing while they owned it until Tindall sold to Ted Hoffman who did the same for years until a conflict arose between her and him. He locked her out.
3. Is there a monetary value in the water rights? Pam Warthen has offered to buy them.

Thank you

Ken L. Johnson
Legacy Fiduciary Services, LLC
39 W. Pine Ave. Suite 100
Meridian, Idaho 83642
Phone: 208-484-6075
Fax: 208-888-9076

From: Newbry, Ashley [<mailto:Ashley.Newbry@idwr.idaho.gov>]
Sent: Wednesday, August 19, 2015 12:34 PM
To: Ken Johnson
Cc: Hersley, Jean
Subject: RE: Tindall Water Right Info

Hello Ken,

From your comments below, I'm not sure that we are of the same understanding.

1. If Mr. Tindall desires, please issue a formal letter to the Department, on behalf of Chester Tindall, stating that he believes 61-10033A has changed ownership in error. (If it is not from Mr. Tindall directly, I suspect we would also need some type of proof that you have been designated as a security interest for him.) He requests that it be changed back into his own name because the place-of-use of the water right is not on Mr. Hoffman's property, and that Mr. Tindall did not intend to convey this water right with the land transaction. The Department will put it in our queue of Ownership Change Applications, but it could take some months to complete his request.
2. Currently, the place-of-use for each of the water rights in question (61-252C and 61-10033a) is Pam Warthen's property. It is my understanding that Pam's property was conveyed to her dry, and without water rights. I do not know if the action of withholding the water rights was one taken by Mr. Hansen or Mr. Tindall. (To find that knowledge, we would need a Chain of Title.) Our records at IDWR do not show that the water rights were ever changed into Mr. Hansen's name, (so I assume Mr. Tindall probably withheld them).
3. As a side note, you may know that water rights are able to be purchased and sold, as well as modified and moved. Because these are "real property," and appear to still be owned by Mr. Tindall (assuming a the Chain of Title reveals that Mr. Tindall conveyed the land to Mr. Hansen dry, in the first place). Mr. Tindall can sell or convey his water rights, or he could file a "Transfer of Water Right" with the Department, to *move* them to a different location in order to use them himself.

Regardless of whether Mr. Tindall files a "Transfer" himself or he sells the water right and the new owner files a "Transfer" to change the place-of-use (essentially to move the water right), the Department's "Transfer" review process will include a review of the history of use of the water rights, to rule out the potential of possible forfeiture. If a water right has not been used within the past five years, it could be subject to forfeiture (it would become worthless, of no further force or effect). It is the act of attempting to modify a water right ("Transfer") that typically initiates the Department's review of the history of use, and could potentially lead to a forfeiture finding.

Thus far, I have not researched the timeline of Mr. Tindall's, Mr. Hansen's, and Ms. Warthen's land transactions or the last time the water rights were used on the property that currently belongs to Ms. Warthen. Currently, these are active water right records in our database.

Feel free to give me a call if this doesn't quite make sense.

Thanks,

Ashley Newbry

Associate Engineer

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From: Ken Johnson [<mailto:kjohnson@lfsidaho.com>]

Sent: Wednesday, August 19, 2015 10:35 AM

To: Newbry, Ashley

Subject: RE: Tindall Water Right Info

Hi Ashley,

Thank you for all this information. It was helpful. How long of a process is it to correct the error that your department did on 61-10033A to put it back in Tindall's name?

You told me in one of our conversations that Tindall could not convey the waters rights to anyone else but Pam Warthern since it was appurtenant to her land, yet she has no legal right to them. It just seems odd that he can't do anything else with them. Is there a state statute that requires this?

Thank you.

Ken L. Johnson
Legacy Fiduciary Services, LLC
39 W. Pine Ave. Suite 100
Meridian, Idaho 83642
Phone: 208-484-6075
Fax: 208-888-9076

From: Newbry, Ashley [<mailto:Ashley.Newbry@idwr.idaho.gov>]
Sent: Friday, August 14, 2015 12:23 PM
To: Ken Johnson
Subject: Tindall Water Right Info

Ken,

There are an assortment of documents available to the public on our website.

1. Navigate to our website: <http://www.idwr.idaho.gov/>
2. Click "Water Rights Search"
3. Click "I Agree to the Terms of Use"
4. Under "Adjudication, Water Right & Basin or Transfer" Select "Claim/Water Right/Basin" and type in the basin (in this case: 61), sequence (10033, for example) and suffix (a, b, c, etc). Leave suffix blank if there isn't one.
5. Click "Save Search Parameter" and "Start Search." A list of results will appear at the bottom of the page
6. For any of those, click the "Details" and "More Options" links. You will be able to view all of the documents we have on file, along with a map showing each WR's place-of-use.

Here is a summary of the water rights in the area:

You may notice that Hoffman has obtained the wastewater right that you mentioned.

61-11802 WARTHEN	Domestic
61-11891 HOFFMAN	Stockwater
61-10033a HOFFMAN	Irrigation from Storage The Dept. was in error to change this into the name of HOFFMAN. It should still be in the name of TINDALL. Can be changed back to TINDALL upon request.
61-10033b HOFFMAN	Irrigation from Storage
61-10034 HOFFMAN	Irrigation
61-252C TINDALL	Irrigation
61-252D HOFFMAN	Irrigation
61-7738	Wastewater

I received some recently updated data on the watermaster up there WD 61 – Canyon Creek (attached).

Hope this helps,

Ashley Newbry

Associate Engineer

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