

Rushing, Emalee

From: Rushing, Emalee
Sent: Thursday, June 05, 2014 4:54 PM
To: 'P. Finman/LCF'
Cc: Norm Semanko
Subject: RE: Water right 96-2019

Mr. Finman

Water right splits only recognize the ownership change and do not alter the rights in any other way such as including additional limitations, easements, etc. that were not part of the established right. The department does not grant any right-of-way or easement across the land of another. You could pursue a separate agreement or understanding with neighbors regarding water rights and access to the point of diversion.

Each water right has a specified point of diversion, nature of use and place of use. If you plan on changing any of these, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required.

As I stated in our phone conversation, I will split the water right to acknowledge the portion which is appurtenant to your property. The remaining portion will go back to the prior owner's name until the other current owners submit a notice of change in ownership.

Emalee Rushing

-----Original Message-----

From: P. Finman/LCF [<mailto:pfinman@lcfamps.com>]
Sent: Friday, May 23, 2014 4:52 PM
To: Rushing, Emalee
Cc: Norm Semanko
Subject: Water right 96-2019

Emalee Rushing,

Thank you for the time you spent talking to me last week. I have been delayed in sending an email to you because I was waiting for some comments from my attorney. Maybe no comments are required, and I just need to provide you with some response.

As we discussed in our phone conversation, the irrigation for the bottom land on my property, Sheri Maxwell's property, the McCollums property, and the Clagstone Meadows, LLC property was completed by temporary damming and ditching of the stream to flood the fields. I would say 10 - 11 months out of the year, drainage to prevent flooding the bottom fields has always been the main concern, and 1 - 2 months out of the year, irrigation may be desired. The only evidence of beneficial use of water that I see that took place above the bottom land was a drip field on a hill where raspberries were grown. This drip field is completely in my property. Therefore all beneficial use of water on Sheri Maxwell's field, the McCollum's field, and the Clagstone Meadows, LLC field involved temporary damming and ditching to flood the field.

If the water right is split, there is no natural water flow to Sheri Maxwell's field and the Clagstone Meadows, LLC field. The stream and drainage from my fields all flows through McCollum's field. I spent a whole summer digging a large ditch completely around my bottom fields to reduce my flooding problem. I also worked with Sheri Maxwell to help her reduce

the flooding of her field. The McCollum's gave me a good tour of the flooding of their field and other fields further downstream. I talked to Tom Johnson who harvests hay from the bottom land of the Clagstone Meadows, LLC property, and asked about any problem in trying to create a sump in my western gravel bank to dump water and reduce everyone's flooding problem. He said that would not be a problem if I can block off the sump if desired. I haven't had the time or money to complete the sump, though. Fortunately, the large ditches around my fields have improved drainage and reduced flooding in my fields significantly. Just yesterday I was plowing in an area without getting stuck in mud where cattails had grown just two years ago. Flooding of my neighbors fields downstream is the same, and this would not change unless I completed a sump on my property.

I've had big problems with neighbors of some other property of mine using water right as a vehicle to gain what I would call indirect ownership and control of my property and its use. It is very important that any splitting of water right 96-2019 not allow anyone to go on my property. I am reasonably certain that there is no easement to do so, but I am double checking this.

The bottom line is there is no natural water path to Sheri Maxwell's field and the Clagstone Meadows, LLC field. Diverting water to these fields, when desired, has historically been completed by temporary damming and ditching on my property that flooded my fields and their fields. The McCollum's do have natural stream flow and drainage into their field. In this area, water drainage is the main problem, and Sheri Maxwell and the McCollums have a flooding problem. Historically, I would say only about 15 acres of bottom land on the Clagstone Meadows, LLC parcels has had any beneficial use of water and the upper forest land has never been irrigated. And it is very important that no one has the right to go on my property to divert water.

Is there any way to create a formal record that no one has a right to go on my property to divert water as part of water right 96-2019?

Paul Finman
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