

Conversation Memo

Date: September 26, 2013

To: File 75-10143

From: Craig L. Saxton

On September 23, 2013, I spoke with Albert Fols concerning the name shown on the partial decree for 75-10143. Attached is an e-mail string documenting our conversation. However, in summary, Mr. Fols wanted to know if the SRBA court is notified if a change of ownership is processed at IDWR. I explained that the court is not notified if the water right has already been partially decreed.

Saxton, Craig

From: Albert Fols [afols@centurytel.net]
Sent: Monday, September 23, 2013 11:19 AM
To: Saxton, Craig
Subject: RE: 75-10143; FOLS CHANGE OF OWNERSHIP

Mr. Saxton,

Thank you for the explanation. We have our property up for sale and this question arose after disclosing our water rights with prospective buyers (why the partial decree was not in our names). I completely understand that the water right goes with the real property as described in the partial decree and that the current ownership of the water right and real property is of little consequence.

Thanks again,

Al Fols

From: Saxton, Craig [mailto:Craig.Saxton@idwr.idaho.gov]
Sent: Monday, September 23, 2013 10:56 AM
To: Albert Fols
Subject: RE: 75-10143; FOLS CHANGE OF OWNERSHIP

Mr. Fols,

No. After the decree is issued, the court considers the subcase complete and only IDWR's records are updated to reflect any further action taken in relation to that water right. IDWR would only notify the court if the right wasn't decreed.

For example, let's say that water right 75-00001 is decreed in 2004. Then in 2010, a transfer is filed which results in splitting 75-00001 into 75-00002 and 75-00003. That is transfer is processed and recorded at IDWR without any of that information being passed to the SRBA court. The SRBA courts records will still show that in 2004, 75-00001 was decreed and the court will have no record of 75-00002 or 75-00003 because they were created after decree 75-00001 was issued. Therefore, if you were to compare all the partial decrees issued on the courts database with IDWR records, you will see that they don't all match because the courts records just reflect the water right at a particular point time.

In contrast, if the recommendation is still pending and the court hasn't issued a decree for a particular water right, if a change of ownership is processed with IDWR, the court will be notified of that change so they can update their records.

Thanks,

Craig

From: Albert Fols [mailto:afols@centurytel.net]
Sent: Monday, September 23, 2013 9:42 AM
To: Saxton, Craig
Subject: RE: 75-10143; FOLS CHANGE OF OWNERSHIP

Mr. Saxton,

Thank you for the prompt response. I saw that IDWR's records indicated that my wife and I are the owners of 75-10143 in IDWR records. I guess my question is: does IDWR follow through with the Court and secure a partial decree in our names?

Thank you,

Al Fols

From: Saxton, Craig [<mailto:Craig.Saxton@idwr.idaho.gov>]
Sent: Monday, September 23, 2013 9:10 AM
To: afols@centurytel.net
Cc: Baxter, Garrick
Subject: RE: 75-10143; FOLS CHANGE OF OWNERSHIP

Dear Mr. Fols,

As you stated, 75-10143 was partially decreed by the SRBA court on September 15, 2000, in the name of Judith Anne Gordon. On December 7, 2004, the Department received your Notice of Change in Water Right Ownership. On December 8, 2005, the Department sent correspondence confirming that the Department records had been updated to show you as the owner of water right 75-10143.

The SRBA court only updates their records if the subcase (water right record) is still pending before the court (not yet decreed). Because the change of ownership occurred after the partial decree was issued, the ownership information on the partial decree is not updated and represents the water right at the time the partial decree was issued.

However, IDWR's records were updated and show you are the owner of 75-10143. Therefore, unless I am misunderstanding the question, it appears you are all set.

Please let me know if you have further questions.

Respectfully,

Craig L. Saxton
Water Rights Supervisor

From: Albert Fols [<mailto:afols@centurytel.net>]
Sent: Sunday, September 22, 2013 6:37 PM
To: Spackman, Gary; Baxter, Garrick
Subject: 75-10143; FOLS CHANGE OF OWNERSHIP

Gentlemen,

It has come to my attention that the change of ownership for my now partially decreed water right No. 75-10143 (ground water) was not processed correctly by IDWR after receipt of the proper documents in December 2004 (see attached Notice of Change In Water Right Ownership). Judith Anne Gordon, with now erroneous contact information on the decree, is still identified as the right holder on the partial decree (copy attached).

It is my understanding that a simple objection to the decree no longer has standing in the Court. It seems to me that corrective action could be initiated by IDWR because the proper steps were taken by me at the time of ownership change and IDWR still has all the necessary documents on file to complete the appropriate action necessary (all necessary Warranty Deeds and forms are attached and available on the IDWR website).

Please let me know if you require any action by me or need more information.

Thank you,

Albert C Fols

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afols@centurytel.net