

MEMORANDUM

TO: Juan Spillett Transfer Files (41-00008E & 41-00013A parts)
SRBA Claims A41-00008B & A41-00013B

FROM: Steve Clelland *scw*

DATE: August 30, 2001

SUBJECT: Post-Settlement Review of System

Yesterday I met with ALL the owners of ALL the portions of the rights 41-00008 and 41-00013, the Adshead Ditch (160") and the Jackson Ditch (30") respectively. I specifically asked about the purpose and affect of the two pending transfers filed by Mr. Spillett, Trans. #5262 (41-00008) & #5263 (41-00013). James Robinson and Juan Spillett discussed the meeting they had with Corey Skinner on July 9, 1998 and they told me the transfers did not accurately describe the intentions of Mr. Spillett.

After reviewing the intermingled ditch uses and the water swapping that has been practiced by the water users, I am convinced these two pending transfers should be Withdrawn or Cancelled. They are not written to describe the uses as practiced by the current owners of the rights involved.

History:

Mr. Spillett has an approved transfer (#3519) that allows him to move his point of diversion for his rights (both -08 and -013) to a pump in the Rock Creek, which he accomplished in about 1995-96. The transfer required him to maintain his participation in the rotation on the Adshead Ditch and that made the system unworkable in a practical sense (i.e. he would need to have a large pump system to allow him to pump the full 190" in 3 days of every 12 days of the rotation.) In an effort to comply with the transfer and still use an economical pump system, the water users developed their own plan to work things out.

In order to maintain the rotation on the Adshead Ditch, Mr. Spillett would give 20" of his water to Robert Spillett and Scott Weston - 10" each. It is not clear where this water is used and no offer given at the meeting time. In return, they agreed to give to Mr. Spillett each of their respective 10" portions from the Jackson Ditch system. Mr. Spillett could now use the entire 30" of the Jackson Ditch delivery to run through his pump and irrigate the 40 acres (located on the west side of Rock Creek) described in the Trans. #3519 and reported in the SRBA Director's Report of his claims. He left the remaining 10" of his Adshead Ditch portion in the ditch system; no POU or use is identified for this 10" on the east

side (Adshead Ditch side) of the creek since the recorded POU is for the 40 acres on the west side or Jackson Ditch side.

If this were the end of the story it might seem to be a workable and documented plan. However, if Mr. Spillett is taking all the 30" from the Jackson Ditch system there is a conflict with Robert Spillett who claimed and is Partially Decreed 5" on 5 acres irrigated from the Jackson Ditch on the west side of the Rock Creek. There is no use of POU location for any of the water held by Scott Weston and the 10" he claimed in the Jackson Ditch is Partially Decreed as being disallowed. Also, 5" of Robert Spillett's portion is disallowed. Since these rights are Partially Decreed by the SRBA Court, both men said they will petition the SRBA Court to set aside the Partial Decrees and then try to justify their rights in the Adjudication.

There is one other critical fact for EVERY transfer of Rock Creek water to consider; that is the difference between Houtz inches as decreed and delivered and the use of standard Miner's inches as used in the rest of the State of Idaho. Failure to account for the variations between these two very different delivery quantities will result in substantial injury to junior water right holders in the Rockland Valley area. Full details are available in most SRBA claim files and a remark is added to each of the Basin 41, Rock Creek Partial Decrees that addresses the problem. Basically the Houtz inch, as delivered through the 8' box at the 6-inch depth, is about 15-30% LESS than the standard Miner's inch as measured according to commonly acceptable devices.

Summary:

These two transfers as filed and advertised do not describe the swapping of rights that has been attempted by the users on this system. Even if R. Spillett and S. Weston are successful in getting their full rights justified and restored, THEY will need to file the transfers to record the changes and not Juan Spillett, as proposed in these transfers. If future transfers are submitted by these parties, the transfers will not be accurately evaluated until the Adjudication of the rights is complete and the legal use of the water is identified. Until then the self-regulation/appropriation will only serve to confuse the IDWR and the water users themselves.