

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, May 16, 2012 4:35 PM
To: 'John Marshall'
Subject: RE: Request to combine 2 water rights
Attachments: Water Right 2-10477.doc

John,

I've attached a proof report showing the elements of the combined right, which we've numbered 2-10477. Please call or email if you have questions.

Sincerely,

Shelley Keen
Idaho Department of Water Resources
P.O. Box 83720
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(208) 287-4947
shelley.keen@idwr.idaho.gov

From: John Marshall [<mailto:john@jmarshalllaw.com>]
Sent: Friday, May 11, 2012 4:42 PM
To: Keen, Shelley
Cc: Fritschle, Carter
Subject: Request to combine 2 water rights

Shelly,

I have a client that acquired water rights 02-10248 and 02-10249 when he purchased the underlying farm ground. These two rights originally were combined as right 02-2206. Two different entities purchased the ground authorized as the place of use for 02-2206, which resulted in the split. Because of the way the two owners allocated the total number of acres they were buying, the split caused an odd allocation of the place of use, where the place of use for right 02-10248 includes a carve out within the place of use for 02-10249. The attached IDWR place of use maps depict this. The land historically has been farmed by a third party who leased both parcels, and from an irrigation perspective, the carve out is not recognized. In fact, a pivot now covers the land where the carve out exists. This odd allocation of the place of use complicates the administration of these rights. For example, I recently prepared applications to lease the unirrigated pivot corners on these rights to the water bank. The place of use carve out made these applications somewhat confusing and cumbersome.

As noted above, my client, ATN Holdings, LLC, has acquired the ground included as the place of use for the rights 02-10248 and 02-10249. Because the rights are derivatives of 02-2206, they share the same priority date. Under the circumstances described above, we think it makes sense to recombine rights 02-10248 and 02-10249 into a single right. Is that possible?

Thank you,

John