

Connie Brandau, Watermaster
Reynolds Creek Dist. 57R
9902 Wilson Cemetery Lane
Wilson, ID 83641

RECEIVED

JUN 22 2010

OFFICE OF THE
ATTORNEY GENERAL

June 21, 2010

State of Idaho
Office of Attorney General
Attn: Lawrence Wasden
P. O. Box 83720
Boise, ID 83720-0010

Dear Sir;

As the elected Watermaster of Reynolds Creek Dist. 57R I am asked by Idaho Department of Water Resources to make recommendations on water right applications and as such reviewed Transfer No. 75704 for Water Right No. 57-7400.

I am concerned that IDWR did not follow the law in providing legal notice concerning the amendment of that application for transfer as required by Idaho Code 42-211 which states "If amendment is made after publication of notice of the original application, said notice shall be republished following amendment---".

The legal notice in the Owyhee Avalanche 5/19,26/10 did not provide a legal description for the land. Even being extremely familiar with the area I had great difficulty identifying the place of use with the information provided to me by IDWR on the original application. During my review of the original application I discovered errors in identifying the place of use. The aerial photo/map provided by the applicant indicated that the place of use would be in Section 19 (with no indication of the Township or Range in which that section was located) and the written legal description (which indicated in two places on the application) that the use would be in Section 19, T2S, R4W on the written application.

I called IDWR to ask if anyone there reviewed the applications for accuracy before they were published. I was assured that they did and was put in contact with the person who had reviewed this particular application, Angie Grimm. I pointed out the error that I had found which put the place of use in a different place (Section 19, T2S R4W) than indicated by the map (Section 19 T2S, R3W). She determined that the actual place of use was intended to be Section 19, T2S, R3W, B.M, Owyhee County, Idaho.

Ms. Grimm had the applicant come in that same day, Tuesday May 25, 2010, to amend his application. She got the amended copy to me the same day and said that the amended application would be available for the public to view on line the next day, May 26th. I

asked if IDWR would re-publish the legal notice because of the amended application. She said that was not her decision to make but it would be up to her superior, Steve Lester, and that she would have him call me to let me know his decision.

Mr. Lester returned my on May 26, 2010 to let me know that he did not think it was necessary to re-publish the notice "because it was such an insignificant typo". I don't think that an error putting the place of use six miles away in a different Range is insignificant. The patrons of our water district could not, by the original application, know that their water rights in Reynolds Creek (a Tributary to the Snake River) would be affected, because the original application indicated the use would be in the Cottonwood drainage (a tributary to the Owyhee River).

The IDWR decision by Steve Lester to not legally notice the amended application that affects 106 water rights senior to this application denies those water right owners their due process afforded by law.

I have included the following in support of my findings:

Copy original application
Copy legal notice
Copy Amended application
Copy email from Steve Lester, IDWR

Please respond.

Respectfully,



Connie Brandau, Watermaster
Reynolds Creek Dist. 57R

Cc
Jerry Hoagland, Sec. - Reynolds Creek Dist 57-R
Jim Desmond, Director - OCNRC