

Merritt, Allen

From: Michael C Creamer [mcc@givenspursley.com]
Sent: Wednesday, May 12, 2010 4:05 PM
To: Merritt, Allen; sking@spfwater.com
Cc: Keen, Shelley; Skaggs, Pam
Subject: RE: meyer T75670 [IWOV-GPDMS.FID440778]

Allen:

Thanks for your time today.

For clarification, in my recent discussion with Mr. Andrus, he did not say that once the well was drilled the land south of the canal was solely irrigated with ground water. He said at some point after the well was drilled only ground water was used on the south ground, and no ground water was delivered into the canal to serve the north ground. I asked him when that point was and he told me and Mr. Meyers he would do some thinking/research to try to provide the year when the ground water became the sole water supply to the south side.

My point about the 104-110 acres is that I don't believe the Watermaster/IDWR would get any support from the SRBA or other judge in telling Mr. Meyers that he could not use the ground water to irrigate the decreed acres within the decreed quarter-quarters since there is nothing on the face of the decree that would prohibit or condition the ground water use on those acres, which total around 104-110 acres. *Stethem v. Skinner* is a case that comes to mind where the court indicated that where the decree is clear on its face, the water master need not look beyond the decree for information/directions on how to distribute. Granted, there are additional acres in the quarter-quarters receiving ground water (which we intend to fix), but the decreed acres are being watered consistent with the decree.

Mr. Meyers has been pursuing this diligently. It has taken some time to develop the facts, obtain available power records (which at this point we have only been able to obtain back to 1994), etc. and this is a priority for Scott King and me to assist him in getting this worked out with IDWR.

I will look forward to speaking with you again once you and Shelley and Pam have discussed. Hopefully by early- to mid-next week if not sooner.

Thanks again.

Sincerely,

Michael C. Creamer
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From: Merritt, Allen [mailto:Allen.Merritt@idwr.idaho.gov]
Sent: Wednesday, May 12, 2010 3:29 PM
To: Merritt, Allen; Michael C Creamer; sking@spfwater.com
Cc: Keen, Shelley; Skaggs, Pam
Subject: RE: meyer T75670

Gents,

Thanks for the discussion today.

For your reference, I have scanned the file and attached the scanned images since it is not available on the internet yet. Included are the maps from Scott today with some notes I made. In reviewing these documents further it appears that there are a couple of statements from Andrus in the file that seem to contradict the premise that the land south of the canal was solely irrigated from the well after it was drilled but maybe I'm interpreting the statement wrong.

I will discuss your premise that since there is no language on the decree about the right being supplemental that on its face it should be considered primary. (As you know we disagree on this point since the file and SRBA review records the supplemental nature to some extent). I will also discuss the possibility of considering 104 acres (110.5) out of the 176 as being primary since it is your understanding now that once the well was drilled the NSCC shares were used north of the canal and only well water was used south of the canal. This will need to be documented somehow.

Although water bank rental might be a possibility to make up the difference I'm not certain how fast such a rental can be made. Seems like Meyers could have been on top of this process sooner.

As we agreed, we can talk again next week on Wednesday at 1:00pm.

By copy of this I will involve the state office.

Regards,

Allen <<img-512144839.pdf>> <<img-512143816.pdf>> <<img-512145100.pdf>>

From: Merritt, Allen
Sent: Wednesday, May 12, 2010 1:30 PM
To: mcc@givenspursley.com; sking@spfwater.com
Subject: meyer

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