

Merritt, Allen

From: Merritt, Allen
Sent: Monday, January 25, 2010 11:38 AM
To: Peppersack, Jeff; Luke, Tim
Cc: Yenter, Cindy; 'wkf@pmt.org'
Subject: Request for staff memorandum regarding issues involved with Transfers 66132 and 66133 in the name of Matthews

Gentlemen,

I am scheduling a hearing to consider a request for conditioning for late season irrigation involved with the referenced transfers pursuant to Rule 602 of the Rules of Procedure:

602.OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA (RULE 602).

Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. (7-1-93)

I request a staff memorandum be prepared to address the issues of potential enlargement of the water rights, potential impact of such regulation in a water district, what language would included in such a condition if appropriate and/or what other issues relevant to the issue of late season irrigation.

I plan on providing a copy of the staff memorandum to Mr. Fletcher (attorney for the applicant) at the time notice is sent for the hearing for his review. I suggest that Cindy Yenter may be the appropriate staff member to prepare the memorandum since she currently acts as the watermaster for WD140 and is familiar with these transfer applications but will leave assignment of staff to your discretion. Please note that whoever prepares the memorandum will need to be available at the hearing for questioning at the hearing.

I would like to send out the notice of the hearing by the second week in February so need the memorandum finalized by that time.

Thank you for your consideration.

Allen Merritt