

WRS

Oct. 18, 2007

Pam Skaggs & Shelley Keen
IDWR
Boise, ID

RECEIVED
OCT 22 2007
DEPARTMENT OF
WATER RESOURCES

Dear Pam and Shelley,

I am writing you about proposed transfer #73714/22-13580 for Glenn and Merri Moradian. Initially this application was rejected after you folks reviewed the proposal. I gather from my conversation with Dave Carlson that the issue was there were implications of primary surface rights that hadn't been addressed.

The parent permit #22-7690 was filed in 1991. On the form, applicants James Hatch and Stanford Huff state on line #10, "Rights on South Leigh Creek" as a reference to other rights on the same place of use.

In line #8 of the application, the applicants state that the well has been used since 1978. Recently, James Hatch, the original applicant, provided a notarized affidavit (copy enclosed) about this water right #22-7690 and its use for another transfer application. I refer to it because of the line which says, "After the well was drilled, we sprinkled the entire place solely with groundwater."

Whether you use 1977 or 1978 there is a statement of intentional abandonment of the surface water from South Leigh Creek which predates the SRBA by 9-10 years.

Only in 1995, upon review of the field exam by IDWR, was condition #6 ever mentioned. That condition states that the surface waters on the property in question should be used first to the extent they are available. If I remember right this condition was instituted by Norm Young.

According to the Hatch affidavit, those surface rights were gone (abandoned or forfeited) 18 years prior. A review of the SRBA records show no surface water claims were filed on the Moradian place of use within the NWNE Sec 5, T5N R45E.

I know of no requirement in place in 1977-78 that implied a water user could not abandon a water right.

The original field examiner implied that when he reviewed the existing data base that surface water rights 22-568/280/281/403/404 and 22-608 were somehow appurtenant to

the 143.5 acres of License 22-7690. Upon review, rights 22-403 & 22-404 were never appurtenant to the Moradian acreage in the NWNE Sec 5, T5N R45E. Also Recommended SRBA right # 22-608 in the name of Leigh Creek Canal does not include the NWNE Sec 5, T5N R45E. Rights 22-280/281/568 imply originally that these rights were appurtenant in part to the Moradian acreage prior to 1977 but the Hatch affidavit clarifies the water use history. This abandonment/forfeiture of parts of decrees 22-280/281/568 explains why no adjudication claims were filed by previous owners of the Moradian acreage.

I would submit that water right #22-7690/22-13580 is the only right that exists in part on the Glen Moradian property. Indeed, when the SRBA is completed with its review of rights in Basin 22 and a final Decree is issued, no South Leigh Creek right will be acknowledged as being appurtenant to the NWNE Sec 5, T5N R45E.

I ask that you reply in writing so Dr. Moradian can make a decision on what he has to do next. Any suggestions on how to accomplish this required fire pond would be appreciated.

Sincerely,

Harold "Skip" Jones

Wednesday, September 12, 2007

I, *James Hatch*, give this account of the irrigation practices on the property previously owned by myself and Stanford Huff located in T05N, R45E, Section 5, W½NE, E½NW, NESW totaling 143.5 acres. Originally, we used surface water from South Leigh Creek to irrigate the lower lands, which encompassed all lands lower than the Bell-McCracken Ditch. The upper lands of 37.5 acres in the NESW was never flooded because it was higher ground. In June of 1977, Intermountain Drilling drilled a well for us in the SWNE of Section 5 to enable irrigation of the entire property from ground water. After the well was drilled, we sprinkled the entire place solely with ground water. In the SWNE of section 5, ground water has been the primary source of irrigation water since 1977.

James E Hatch

James Hatch

Subscribed and sworn to before me this 19th day of
SEPTEMBER, 2007.

Michelle Cain

Notary Public

My Commission expires: 9-18-12

