

Memorandum

Date: April 6, 2010
To: Water Right File 67-10125
From: Craig L. Saxton *CLS*
Subject: Conversation with Kenneth L Aschenbrenner

I spoke with Mr. Aschenbrenner at about 11 am on 4-6-2010.

Mr. Aschenbrenner filed a change of ownership for partially decreed right 67-10125. Emalee Rushing discovered that the POU for water right 67-10125 didn't match the property description filed with the change of ownership.

Emalee asked me if I could help Mr. Aschenbrenner pursue fixing the error in the water right description.

When I spoke with Mr. Aschenbrenner, he stated that the well hadn't been used since 1992. In November (?) of last year he burned down the house that the well supplied because it had been abandoned for some time and was not livable. Mr. Aschenbrenner told me that he had no real intention to build on the property at this time. He also mentioned that the well was located pretty close to the septic drain field of the property neighboring to the west and if he or a buyer were to build, they would need to drill a new well anyway.

67-10125 was partially decreed by the SRBA court on 12-8-2000.

I told Mr. Aschenbrenner that from what he was telling me, it sounded like the water right had been forfeited due to non-use.

I told Mr. Aschenbrenner that he could pursue setting aside the partial decree to fix the error in the POU description, or he could file a transfer to fix the error, but he would be arguing that there was a valid domestic water right associated with that well and that property and it didn't sound like it was. I told him he could file a new SRBA late claim, but again, he would be implying that there was a valid water right on the property.

We discussed how he didn't really need a recorded water right for a 42-111 domestic right, but if and when he or a buyer decided to build a new house and use the well (or drill another one) he would be establishing a new domestic water right that he could file on.

Mr. Aschenbrenner said he would talk to the previous owners "Roberts Farms Inc" but did not plan on pursuing the change of ownership for 67-12125 which would require that they "fix" the POU description on the right.

Based on my conversation, 67-10125 appears forfeited as of 12-9-1001 due to non-use.

Mr. Aschenbrenner's change of ownership documents should be returned and I recommend his filing fees be refunded.