

FROM: Allen Merritt

DATE: August 26, 1997

TO: Transfer #5089 in the name of Anderson
Transfer #5090 in the name of Montgomery

SUBJECT: Pre-hearing Conference

On 8/21/97 I conducted a joint pre-hearing conference in the matter of the above referenced transfer applications dealing with the transfer of the storage water in Lake Cleveland decreed under right 45-00294. (Actually the storage in the lake is covered under two decrees: 45-00294A for 3.20 cfs decreed to Parke
45-00294B for 1.60 cfs decreed to Guiles

These transfers were an effort to bring to resolution the ownership question of this right and to get recorded where the right is presently being used.

Anderson's transfer was protested by: Montgomery
DeNaughel
Warthen, Intervenor
Montgomery's transfer was protested by: Anderson
DeNaughel
Warthen, Intervenor

Anderson was represented by attorney Stone.
Montgomery was represented by attorney Semanko.
DeNaughel & Warthen represented themselves.

Ownership appears to be the main issue with all parties except Warthen. Presently there are four claims filed in the SRBA for these waters as represented by:

A45-00294A 1.60 cfs, Cooper
A45-00294C 3.30 cfs, Anderson
A45-00294D 1.60 cfs, Montgomery
A45-00294E 1.60 cfs, DeNaughel

At the conference Mr. Anderson brought along Fred Parke whose family has been involved with this water and he provided a history of the water. His family was the one that sold out to Anderson. Mr. Parke indicated that ownership of the water rests with:

Anderson: 2.60 cfs (1.60 cfs of Guiles' decree & 1.00 cfs of
Parke's decree)

DeNaughel: 2.20 cfs (2.20 cfs of Parke's decree)

Included in the file is deposition by Parke and map that summarizes the trail of ownership according to Parke.

At the conference Semanko voiced the opinion that the ownership question should more correctly be determined in the SRBA and the administrative process of transfer would leave out Cooper's & DeNaughel's claim to the water so the process would be flawed. He

indicated that he would talk to his clients but proposes to put the applications on hold. Stone seems to be open to this and they were going to meet and let me know what they desired. As for Worthen his concern was more of an overall concern about how these rights are delivered and their affect on the users in the valley. He agreed that maybe the SRBA should decide these concerns.

I will wait to hear from the applicants on how to proceed. Semanko indicated that they would continue to call on the water to avoid forfeiture issues. I told him that if a call was made then the department would have to provide instruction to the watermaster and ownership may need to be determined or interim agreements made until SRBA decides. I told the parties that since the story of what Anderson and DeNaughel owns according to Parke is different than what is currently represented by their SRBA claims that they may need to amend their SRBA claims if the Parke ownership history is what they are going to rely on.