

July 5, 1997

RECEIVED

JUL 15 1997

Corey Skinner, E.I.T.  
Safety of Dams Engineer  
Department of Water Resources  
1341 Fillmore Street, Suite 200  
Twin Falls, Idaho 83301-3380

Department of Water Resources  
Southern Region

Re: Watermasters recommendation on Transfer of Water Right No.  
45-00294; T#5089 George A. &/or Gwen Montgomery  
T#5090 A.W. &/or S.J. Anderson

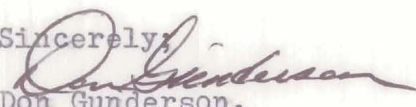
Dear Mr. Skinner:

Enclosed, you will find my recommendation as Watermaster for T#5089 and T#5090 along with the historical problems pertaining to Lake Cleveland and my denial to the current Adjudication applications.

I apologize for taking so long in getting this data to you. I have talked with all parties as to where I stand at this time on documentation you submitted on June 4, 1997 for the acceptance of Kent Cooper.

If you have any questions about the supporting data, please contact me.

Sincerely,

  
Don Gunderson,  
Watermaster  
Water District 45-F

Enclosures

APPLICATION FOR TRANSFER OF WATER RIGHT

JUL 15 1997

NO. 5090

RECOMMENDATION OF WATERMASTER

I, Donald G. Gunderson, watermaster of Marsh Creek Drainage,  
of Water District No. 45-F, County of Cassia, State of Idaho,  
whose address is 1000 S. 1040 E.; Box 125, Albion, ID. 83311  
have read the attached copy of the application for transfer of water right for \_\_\_\_\_  
A.W. &/or S.J. Anderson, and to the best of my knowledge believe the  
(name)  
application to be true.

A. I hereby endorse the above numbered Application for Transfer and recommend  
that the Director of the Department of Water Resources approve the transfer subject to  
the following conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OR

B. I do not endorse approval of the above numbered Application for Transfer as re-  
quested for the following reasons: See attached sheet pertaining to Adjudication.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated at Albion, Idaho, this 18 day of JUNE 19 97.

Donald G. Gunderson  
(signature)

Watermasters recommendation on Transfer of Water Right #45-00294

Mr. Corey Skinner, as of this date, July 5, 1997. I have to disapprove the Adjudication Claims as set forth by the documentation submitted to the Department of Water Resources and the documentation that I have received from parties involved and conversations going back Historically from different people in this Albion Valley.

I am in concurrence with you that additional transactions will come forward that will clarify the legal decreed owner's on the storage of water in Lake Cleveland through legal process.

I have talked with three (3) of the parties involved in the adjudication and with the historical problems in delivering said water stored in Lake Cleveland. I am not about to set a different precedence than what my predecessor's have done in the past.

Mr. Kent Cooper is the only individual that I have not talked with in regards to the latest documentation dated June 4, 1997 from MR. C. Skinner.

Adjudication Claims Denied for the following reason's:

1. The four parties, who have filed on the Snake River Basin Adjudication Claims for water out of Lake Cleveland based on original (3/31/1888) decreed Water Rights, of a total of 4.8 CFS VERSUS Adjudicated Claims totaling 8.1 CFS, discrepancies of 3.3 CFS over the decreed rights.
2. Water requested on T# 5089 is being directed to areas in question where there is no established water right under regular decree. This has been a verbal protest by Mr. Kent Cooper to me. I have requested the protest in writing, as yet, I have not received this. I did inform Mr. George Montgomery of the protest.
3. Historically, until something is done with the delivery ditch from Lake Cleveland to Marsh Creek, the beneficial decreed water will never amount to a beneficial use to the requester on Marsh Creek. The loss is too great for what is being released at the original diversion of storage. Land Creek and the decreed users end up as the benefactor. Land Creek, during the release (10 days) of Lake Cleveland always raises - anyway my records indicate this.
  - (a) In 1995, my daughter Jody, George Montgomery and myself, worked on the ditch. Water released was approximately 6.0 CFS or 300 inches. We had to repair the ditch from the lake to the creek. The amount of beneficial water to Marsh Creek was 1.16 CFS or 58 inches measured.
  - (b) In 1996, same release, different parties working the ditch, there was no beneficial water reaching Marsh Creek. Therefore, remarks in T# 5089 eludes to 100% delivery of released water from Lake Cleveland.
4. Document received and submitted to me indicating 1/3 rd storage right off of Lake Cleveland, can be interpreted in two ways on the amount of water transferred to the Montgomery place.
  - (1) Depending on date of transfer would indicate a Plus or Minus
  - (2) Could be the reason of over stated CFS in the Adjudication Claim.

Page 2;

Watermasters Recommendation/Water Right 45-00294

5. On the George Giles property of the Adjudicated Claim submitted by Kent Cooper is in question on decreed water of said property, due to documented sales and transfer of water rights. I see this also as a possible over stated area adding to the additional CFS in question in paragraph 1, page 1 of this document.

In closing, I have went back in the minutes of the Water Districts files (history) in 1995 and I have NOT found any information on Lake Cleveland. I failed to check if there were any charges made to decree 294. That will be my next step.

I have to restate my position as a seperate party, I am not in the position to set a new presidence on the decree in question, it can only be resolved by legal action sence all parties cannot resolve the issue. Also, I have indicated my wishes to all parties involved - that until the problem is resolved, the water should stay in Lake Cleveland.

Sincerely;



Don G. Gunderson, Watermaster  
Water District 45-F  
P.O.Box 125  
Albion, ID. 83311

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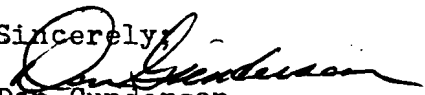
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Re: TR 5089

FY I

APPLICATION FOR TRANSFER OF WATER RIGHT

JUL 15 1997

NO. 5089

Department of Water Resources  
Southern Region

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