

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED
FEB 05 2010
Department of Water Resources
Eastern Region

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 73951 IN THE)
NAME OF MUD LAKE WATER USERS)
INC.)
_____)

PETITION FOR RECONSIDERATION
OF AMENDED PRELIMINARY ORDER
DENYING APPLICATION FOR TRANSFER

I, Perry Woodard, after reviewing the Amended Preliminary Order Denying Application for Transfer, submit a Petition for Reconsideration in protest to the Findings of Fact.

Finding of Fact

1. Yes.
2. Yes.
3. Yes.
4. This is a right to pump water *from* storage not *into* it.
- 5.
6. This is not true. Sandhole was supplied by Warm Creek and springs
7. Perhaps Ray's Lake and Sandhole should have minimum lake level as well as minimum stream flow for Camas Creek as they do meet the criteria for such restrictions.
8. In 1930 they were not pumped
9. Yes, the natural flow – no pumping
10. Don't fill your lake that is full
11. It is illegal to dam a natural flowing creek
12. Yes, and they will be damaged by any attempts to pump this water into Mud Lake.
13. These culverts and this dike are in violation of Idaho Code. You cannot dam a natural flow stream.
14. You are all done when there is no natural flow into Mud Lake.
15. This is their problem. They caused it. Live with it.
16. They have no water right or point of diversion for this water.
17. They were not entitled to this water. Carlson testified standard practice in Eastern Idaho. But upon further questions admitted all these places had water rights and point of diversion
18. Pumping more water than they have rights for and over pumping the aquifer are in violation of Idaho State Water Code.
19. There is no water right.
20. This is not a problem. He also testified it's not enough to measure and does not run back to Ray's Lake.
21. Fix the leak and there is no problem
22. Pumping the USFWS dry is not in Public Interest
23. USFWS had no authority to negotiate the waters of the State of Idaho.

- At this level the USFWS is dry by their own testimony.
 - It is 5 feet below Sandhole. No point of diversion, no water right and no compliance with Idaho Code.
24. He also testified that his survey readings were correct. They are 40 feet lower than USFWS Survey.
25. This is a foot below the water level in Mud Lake at a staff reading of 8.62 feet.
26. This is a lie. There is no casing at Ray's Lake Pump and he could not reach the bottom of the column.
27. Has not been properly determined.
28. He will not enforce Idaho Water Code and water law and as an employee of the State of Idaho, should be fired as well as all Idaho employees who will not comply with Idaho Code.
- Big deal, we don't have to pay to install a pump on a point of diversion and water right that doesn't exist.
 - How could the water rights in Sandhole not be affected by a pump that is five feet lower?
 - You got that right
 - Good, we have a record of the amount of water MLWU has stolen.
 - This is not true. They were told in 1920 that draining Rays Lake, Sandhole Lake and Hamer Lake would cause problems
 - Drying up USFWS Ray's Lake, Sandhole Lake and all ponds as they were in 2008 in not in the public interest.

CONCLUSIONS OF LAW

1. Right. Fix the gates or forget it.
2. Any water pumped, effects natural flow rights
3. When Camas Creek will not flow into Mud Lake. None of this water belongs to MLWU. Just as when water in Camas Creek will not flow into USFWS the upstream users can take it all.
4. Again this is a right to pump *from* storage and not *into* storage.
5. No so. Leaving water that will not flow into Mud Lake is USFWS is conservation of water resources of State of Idaho.
6. Stealing Camas Creek water and drying up the refuge, Lake and ponds is not in local public interest.
7. All that he can administer is natural flow not pumped water
8. It is not natural flow, it is pumped water
9. Application 73951 should be denied with no conditions.

ORDER

1. You cannot trust MLWU
2. No
3. No
4. No
5. No

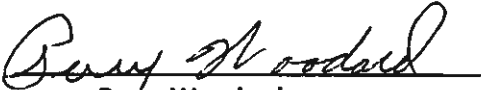
Signed


Perry Woodard

Date 02-04-10

CERTIFICATE OF MAILING

I hereby certify that on the 04 day of February, I mailed a true and correct copy, postage paid, of the foregoing PETITION OF RECONSIDERATION to the person(s) listed below:


Perry Woodard

US CERTIFIED MAIL

RE: TRANSFER NO 73951

**US FISH & WILDLIFE SERVICE
BARBARA SCOTT-BRIER
911 NE 11TH AVE, 2W-EN
PORTLAND, OR 97232**

**WATER DISTRICT 31
PO BOX 33
DUBOIS, ID 83423-0033**

**HOLDEN KIDWELL HAWN & CRAPO
ROBERT L HARRIS
PO BOX 50130
IDAHO FALLS, ID 83405-0130**

**LYLE SHUPE
2296 E 1950 N
HAMER, ID 83425**

**SID ASHCRAFT
2504 N LENNOX
MESA, AZ 85207**

**ERNIE CARLSON
IDAHO DEPARTMENT OF WATER RESOURCES
900 N. SKYLINE DRIVE, STE A
IDAHO FALLS, ID 83402**