

Memorandum

To: John Westra
CC: Application for permit file 65-32344
From: Vicky Music 
Date: 10/15/2009
Re: prehearing conference

David Dean filed this application which was protested by Joanne Lakey, on behalf of the Clarence Link estate, and Christine Bryson. The protestants are sisters. The application is for a developed spring tributary to Coon Creek, for stockwater storage. The prehearing conference was held 10/13/2009 at the site of the springs in Sweet, ID. Joanne Lakey did not show up for the prehearing conference, nor did she call IDWR. Her sister said she had other things to do that day. Watermaster Eric Herr was also invited but did not show up. So, present were Luane and David Dean, Chris Bryson and me.

Chris Bryson does not have Coon Creek rights but will inherit a part of her deceased parents' rights (Clarence and Lorna Link) that are currently in probate. Chris Bryson believes that activities on the Dean property in the past 3 years has diminished the flow and quantity of water in Coon Creek. In 2006, the Deans put in 3 stockwater ponds that diverted water from Coon Creek and the springs trib to Coon Creek. She filed a complaint and the Deans filled in the ponds in about 2007. In 2007 the Deans filed this application and in the summer of 2009, they developed the springs that is the subject of this application and protest. I asked David Dean to measure the pond and provide dimensions by the prehearing but he did not. The Deans estimate the pond is 100' x 100' x 8'.

The parties agree that the only issue here is whether the stockwater pond is injuring the protestant's water rights (Link rights). She and the applicant agree that the upper draw and springs in the area of the Dean property provide roughly 20% of the water available in Coon Creek. However, Chris estimates that the quantity of water to her property has decreased about 75% in the past 3 years. The Deans contend that their activities have actually increased the quantity of water in Coon Creek, which dries up by mid-July each year. I explained to Chris that this application was for a very small quantity of water and it likely does not affect the Link rights. The pond is estimated to contain roughly 2 af of water.

The Deans will make the goodwill gestures of installing a pipe to catch the runoff and overflow from the pond and diverting it to Coon Creek. They will also trench an area by one of the stockwater ponds that was filled in which will also divert some run off into Coon Creek.

The following deadlines were set:

[1] The Deans will provide measurements of the pond to IDWR, and install the pipe and trench by 12/31/2009.

[2] By June 1, 2010, the parties will meet to observe the flow in Coon Creek, take pictures, and write a short letter report as to the status of water available to fill the Link rights.

[3] By June 1, 2010, Chris Bryson will either withdraw the protest or the matter will be set for a hearing.