

Lester, Steve

From: Peppersack, Jeff
Sent: Friday, May 06, 2005 1:41 PM
To: Lester, Steve
Subject: RE: Follow up on SRBA coordination for transfer of 63-9276

I'm fine with the validity and POU issues. The only remaining question I have is the purpose of use. I did a query of water rights and permits in the name of City of Boise and found that the majority were issued for purposes other than municipal (mostly irrigation). There are a couple that list municipal use, so we haven't been completely consistent.

The question is, does the use qualify as municipal? Might seem like a no brainer that the City of Boise would hold a municipal water right, but a review of the definitions makes it less certain. Under Section 42-202B, a municipal use "...refers to water for residential commercial, industrial, irrigation of parks and open space, and related purposes, excluding use of water from geothermal sources for heating, which a municipal provider is entitled or obligated to supply to all those users within a service area..." The proposed use of irrigation and other for a park seems to qualify under a municipal use, but is the City of Boise acting as a municipal provider by supplying water to users within a service area? The applicable definition for a municipal provider is defined as a "...municipality that provides water for municipal purposes to its residents and other users within its service area." It could be argued that UWID is the municipal provider for the city and the City of Boise would hold water rights as a separate entity for uses other than municipal because they don't serve to users within a general service area.

The most recent exception to the City of Boise's permits issued as other than municipal is permit 63-12575 (Lander Street). Gary mentioned this one and seemed to conclude that we may not prevail in an argument regarding the use not qualifying as municipal, but he did think that the use should be limited to a specific area (and volume for future transfer?) If we go there, then I guess the name of the use doesn't really matter.

Jeff

-----Original Message-----

From: Lester, Steve
Sent: Tuesday, May 03, 2005 2:31 PM
To: Peppersack, Jeff
Subject: Follow up on SRBA coordination for transfer of 63-9276

Jeff:

Dave's 4/29 email on this City of Boise transfer application responded to my two questions of 3/28 addressed to both of you. You had replied on 3/29 to the 3/28 email.

Appears with respect to at least SRBA issues, we should proceed based on Dave's 2 points: right presumed valid and proposed municipal P/U should be limited to Warm Springs Golf Course.

I will proceed along those lines unless you can think of reasons not to. Please reply when time allows so I can know if green or yellow light on this one.

Thanks.

Steve

Thanks