

Keen, Shelley

From: Keen, Shelley
Sent: Tuesday, January 08, 2008 3:22 PM
To: 'TomMeSum@aol.com'
Cc: Swank, Lyle; Peppersack, Jeff
Subject: RE: Water Licenses 23-2071 and 23-11333

Mr. Summers,

On December 24, 2007, the Department of Water Resources issued an order denying your petition for reconsideration of License 23-11333. Emalee Rushing mailed it to your Idaho Fall address on December 26, 2007. The order explains why IDWR cannot change the priority date of License 23-11333. Please call me right away if you have not received the order.

The packet containing the order includes information explaining how to appeal the issuance of your license and the denial of your petition for reconsideration. The appeals must be in writing; they cannot be filed by email.

Please call if you have questions about your license, the order issued last month, or the appeal process.

Sincerely,

Shelley Keen
 Idaho Department of Water Resources
 P.O. Box 83720
 Boise, ID 83720-0098
 (208) 287-4947
 shelly.keen@idwr.idaho.gov

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

From: TomMeSum@aol.com [mailto:TomMeSum@aol.com]
Sent: Monday, January 07, 2008 11:58 AM
To: Swank, Lyle; Keen, Shelley
Subject: Re: Water Licenses 23-2071 and 23-11333

The State of Idaho made an error which needs to be addressed. In 2005 referenced water right 23-2071 was maneuvered to termination. The termination was successful because the abandonment complaintant, our neighbor and an IDWR employee, had credibility with the adjudicator and further the adjudicator never visited location where Pine Creek water had been utilized since 2002. Prior attempts to use the water further down stream, had been made, however the stream do longer flows at that point. Starting in 2002 substantial resources and hundreds of man hours had been expended to make and line furrows, plant over 500 pine trees and alfalfa. The trees, alfalfa and grain were watered from Pine Creek (see the attached USDA 3/10/04 memo, previously provided to IDWR)

Following March 2005, IDWR Director Ronald D Carlson visited the location where the trees, alfalfa and grain were being irrigated from Pine Creek. This visit resulted ultimately in the granting of water right 23-11333. I request that inasmuch as the 2005 conclusion was not accurate that the priority date for 23-11333 be established at April 3, 1964 which is within the purview of IDWR. I also request Boise allow time for these matter to be given a review.

I sincerely await your kind response to this request.

Thomas J. Summers, Jr.
5055 Jupiter Hills Dr.
Idaho Falls, Idaho 83401

Mr. Keen, please provide current e-mail to Mr. Jeff Petersack

e mail provided to Shelley Keen IDWR Boise 12/14/2007.

On or about March 10, 2005, I met with attorney Jerry Rigby and IDWR personnel, adjudicator Ernest Carlson et al with attorney Candice McHugh on the speaker phone. The meeting related to the adjudication of license 23-2071 with priority date of April 3, 1964. Attorney McHugh informed us that the 1989 transfer of this water right from Pine Creek down stream to Antelope Creek allowed IDWR to acknowledge the current existence and validity of license 23-2071. However, Mr. Carlson informed her that District's records did not contain any documentation noting the payment of the transfer. Therefore, for the purposes of independently validating the license, non payment made the transfer null and void and McHugh concurred.

While reviewing my father's files I located the receipt for the 1989 transfer. The document dated February 6, 1989 is marked "application for transfer/ #23-2071" check 478 in the amount of \$50.00 and signed Thompson. (Document attached)

Shortly after the March meeting, IDWR Director, Ronald D. Carlson traveled to Pine Creek and confirmed the current and prior utilization of the license 23-2071. He met with IDWR employees involved in the adjudication. Thereafter he advised me to work with IDWR employee, Keith Wilson to transfer the water right from Antelope Creek, where the stream no longer flowed, back to Pine Creek. In so doing it was determined that this water right had been terminated. He then instructed me to work with Mr. Wilson and reapply for a water right on Pine Creek, which resulted in the current license 23-11333.

In view of the above information and the location of the receipt validating the license it is requested that license 23-11333 as nearly as possible be brought into conformity with license 23-2071 including priority date of April 3, 1964.

Start the year off right. Easy ways to stay in shape in the new year.