

Merritt, Allen

From: Merritt, Allen
Sent: Tuesday, September 18, 2007 9:36 AM
To: Keen, Shelley
Cc: Bittner; Carol Kingston; Gary/Dani; Jock Slavin; Leslie; lhawkins@ida.net; Tommy Thompson; 'Kathy Glikzman'; 'Leslie May'
Subject: RE: Clarification of Preliminary Decision

Shelley,

As you know I was the hearing officer for the William's Lake permits amendment contested cases. I have started to receive e-mails regarding my recent decision but hesitate in responding since it could be viewed as ex parte communication. I understand the e-mails seek clarification of some issues that you could provide. Attached are the e-mails I have received. Please respond to any questions you can answer. I understand you are out of the office today but will be in the office tomorrow.

I understand the preliminary order was mailed out September 11th so timely petitions for reconsideration must be received by the Department by 5:00 pm on September 25.

By copy of this e-mail I am informing the parties sending the e-mails and those copied.

Thanks,

Allen

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Merritt, Allen

From: Leslie May [shumate@centurytel.net]
Sent: Sunday, September 16, 2007 11:28 AM
To: Merritt, Allen
Subject: Clarification

I am writing to ask for clarification on two decrees contained in the Preliminary Order on the Williams Lake Recreational Water & Sewer District application for amendment for water right permits 75-7052 and 75-7589...specifically 75-7589.

As a Lake Creek senior water right holder I would like a more specific definition of "a measuring device of a type approved by the Department." Since past department inspectors have been quoted by the Water Board as saying a bucket and a stop watch is all that's needed...I find the "type approved by the Department" to be far too vague. Is there a listing somewhere as to what kind of devices are acceptable? And could that list, or specific devices, be added to the order?

Second. The Water Board has quoted 0.21 as being approximately 120,000 gallons per day and has said currently all that is being used of that amount is about 10,000 gallons per day. The Board has further stated that the present delivery system could not possibly pump 120,000 per day. I therefore question why the Bureau of Land Management has been given additional water usage over and above the 0.21 since currently there appears to be plenty of excess water for all needs.

"...ordered that, the use of water for the BLM campground is not incorporated as a use pursuant to right 75-7589 and shall be dealt with as a separate matter under licensing of permit 75-7638 in the name of BLM."

This in effect is granting permission for the taking of an additional amount of water from the springs located above Lake Creek water right claimants and it puts no limit on how many additional gallons can be taken. It also makes no mention of monitors to measure how much water is being used by the BLM or any other form of accountability. Why was this added to the order? If a separate permit on the spring was requested by the agency, to my knowledge it was not done during the public hearings or disclosure period. And if the BLM made application for the separate permit was it duly advertised?

I would also like a clarification on what if any means the Water Board will be required to implement in order to determine how much water is being used and how many homes can be added without exceeding the 0.21 permit. Or is that not in your purview?

And, are weekends included in the 14 day time limit for appeals? According to your count, what is the calendar due date?

If I need to address my questions to someone other than you could you please advise me of the proper procedure?

Thank you.
Leslie May Shumate

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Merritt, Allen

From: Kathy Gliksmann [kathleen1387@cox.net]
Sent: Monday, September 17, 2007 4:13 PM
To: Merritt, Allen
Cc: Bittner; Carol Kingston; Gary/Dani; Jock Slavin; Leslie; lhawkins@ida.net; Tommy Thompson
Subject: Clarification of Preliminary Decision

Dear Mr. Merritt,

I am writing to clarify a few points in your background and finding of facts sections. On Page 1, when you state that the proposal was made during the licensing process to change the nature of use for permits 75-7589 and 75-7052 to municipal status, I would like to point out that the Williams Lake Water District had applied for municipal status months prior to the field exam.

On Page 3, number 6 should be amended to reflect that this information was valid prior to November of 1995 when I sold the resort. There is no current information for the resort reflected in your findings of fact. Also on Page 4, number 20 is also not current information. While this was true of the resort prior to 1995 because it depended on the old seasonal water system, the resort, as well as the private residences at the lake, must now be considered year round.

On Page 4, number 17, you state that houses have been relocated as a result of fire and reconstruction, but that is not the case. While we have had homes burn down, 5 during my 30 years at the lake, 3 were neither rebuilt nor moved. One was on resort property and another cabin took its place on the same spot. Another place that burned down was rebuilt on the same lot - if not in the same footprint. This misconception is repeated again in the last paragraph on Page 6. The question that arises from this issue is one that the District has not addressed - does a water hookup stay with the land since all of the District lines are set up to deliver water to that particular parcel.

Now for my questions . . .

On Page 4 of your order, number 11 under Finding of Acts talks about the BLM's separate water right and that it is for a spring not associated with the springs that the District uses. Under the current BLM/District agreement the water to the BLM campground is included in our allotment and is pumped and distributed by our system. Is this third spring to be developed to collect in our collection tank and will it then be pumped and distributed by our limited system? What about questions of cross-contamination? Will the BLM water be in addition to our .21cfs or will the total pumped be deducted from our .21cfs. Perhaps BLM intends to build its own water system. Will their water right include metering so that monitoring is possible and records can be kept of their totals? What if BLM decides to increase its water usage at the Campground by adding showers or camp sites? Are we expected to adjust to their possible increases in consumption under their own water right? I ask this because our pumping capacity, storage capacity and distribution lines are all limited and your order has eliminated any hookup limits at the lake for the District system.

On Page 6, under analysis, you state that it is likely that "regulation of these subject rights in the future will be by a watermaster of a water district to be established in the future." On what do you base this statement? You also state that "counting of households" etc should not be a basis for regulation. Perhaps that is true from a water standpoint, but if you read the water rights backfiles, you will find that funding was not available to the District for providing water to vacant lots so the only way to fund systems was to limit the number of hookups to the existing users plus a small number for growth during the development period. In other words, in order to finance the building of the system the number of existing homes was crucial. Without those numbers, there would have been no system. Also then, the size and capacity of the system was limited as a consequence.

On Pages 8 and 9, on the actual Water Right Licenses, it states that this license is subject to all prior water rights. Does that include hydroelectric rights?

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On Page 9, number 2 under conditions of approval allows stockwatering for stock "associated with the households." Would that include the horses and pack strings of a homeowner who is an outfitter? All the stock of a homeowner who is a breeder?

Where would I find a list of IDWR approved metering systems? Since a bucket and stopwatch were mentioned at the hearing, is that acceptable to IDWR in this case?

My last question is to ask what date is now the end of the appeal period? Since I did not receive my packet from you until the 14th, I wondered if you could be a little more specific about a date.

I hope that my request for clarification should be directed to you, if not please let me know. Thank you in advance for your answers.

Kathleen Gliksman

9/19/2007