

Keen, Shelley

From: Keen, Shelley
Sent: Friday, September 21, 2007 10:16 AM
To: 'Kathy Gliksman'
Cc: Bittner; Carol Kingston; Gary/Dani; Jock Slavin; Leslie; lhawkins@ida.net; Tommy Thompson; Merritt, Allen
Subject: RE: Clarification of Preliminary Decision

Ms. Gliksman,

Allen Merritt asked me to respond to your questions about his preliminary order on the Williams Lake applications for amendment. My responses are based on my understanding of Allen Merritt's preliminary order.

I will also place this response in the water right files maintained by IDWR.

BLM Permit -- The BLM has Permit 75-7638, which was issued in 1996 to authorize the diversion of up to 18 gallons per minute from a spring in the NESESE, Section 34, T20N, R21E, for use in 12 campsites. The application was advertised in The Recorder Herald on December 21 and 28, 1995. The application was not protested. IDWR has not yet completed the field examination needed to confirm the beneficial use, if any, established in accordance with the permit. However, the BLM submitted proof of beneficial use in 1997, which effectively ended the authorized development period for the permit. In other words, BLM's water right will be limited to the beneficial use that was established by 1997.

Establishment of a Water District and regulation of water rights by a watermaster -- A general stream adjudication is a prerequisite for establishing a water district to regulate diversions of water. When the Snake River Basin Adjudication is complete in a sub-basin, IDWR typically creates a water district for that sub-basin, if one does not already exist. We currently anticipate that the SRBA will be finished for all sub-basins, including Basin 75, in the next couple of years, and water districts will be established for the regulation of water rights in those remaining sub-basins.

Hydroelectric Rights -- The Idaho Constitution, Idaho Code, and the Water Appropriation Rules all allow for the subordination of water rights for the generation of power to water rights for all other purposes, except ground water recharge in some cases. Water rights for other purposes are not curtailed to maintain a supply of water for a hydropower water right. For that reason, a hydropower right would not be considered a "prior right" for water delivery purposes.

Stockwater -- From a plain reading of the preliminary order, I was not able to discern a specific answer to your question about the number of "household" stock that can be watered in connection with the municipal water use recommended by the hearing officer.

Measuring Devices -- I have attached a document describing the types of measuring devices acceptable to IDWR. This information is also available in the Water Measurement section of IDWR's web site. Rather than specify what type of measuring device should be used, IDWR typically allows water right holders to select from a range of devices. This approach allows the right holder to account for a number of variables, including site characteristics, availability, technical ability, and budget. It is my understanding that IDWR will require installation of a permanent measuring device with a data logger capable of recording daily usage. It is not clear to me whether installation will be required now or when a water district is formed.

Sincerely,

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

From: Kathy Gliksman [mailto: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

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