

Clark, Cynthia (Bridge)

From: Hamlin Nygard, Susan
Sent: Monday, May 08, 2006 11:35 AM
To: Clark, Cynthia (Bridge)
Subject: RE: Water right 34-4035C

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

From: Hamlin Nygard, Susan
Sent: Tuesday, May 24, 2005 1:58 PM
To: Clark, Cynthia (Bridge)
Cc: Michael C. Creamer (E-mail)
Subject: RE: Motion to Set Aside, Water Bank

Cynthia, Here is a brief procedural history: The partial decree was issued Jan 2, 1998. Due to the remand from the Supreme Court, the Period of Use element was corrected through a nunc pro tunc order issued on Jan 28 2002. This order only changed the period of use for the water right and had the effect though the nunc pro tunc issuance to be as if it were issued on the original decreed date. There was a post decree transfer (#5400) that changed the point of diversion, place of use and change in ownership that was completed on March 23, 2000. It appears that the department drafted an NCAP (Notice of Completed Administrative Proceeding) for this transfer, but it was not filed with the SRBA court. There was some confusion early on in these test basins (like Basin 34) on how to handle the post decree transfers and notice to the court, especially when the season of use issue was still outstanding. However the court addressed that concern by issuing the season of use element with the Nunc pro tunc effect, thus not reopening all the elements to the water rights. Generally IDWR does not file NCAPs with the court for water rights which are already decreed, and that is the situation here. So it looks as if the database needs to be corrected.

If the attorneys have questions they may give me a call. Susan

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

From: Clark, Cynthia (Bridge)
Sent: Tuesday, May 24, 2005 10:51 AM
To: 'Brad V. Sneed'; Scott King
Cc: Hamlin Nygard, Susan
Subject: RE: Motion to Set Aside, Water Bank

Brad and Scott,

I left a message with Mike Creamer yesterday to discuss the McCalab Estate water right. I posed our questions to department attorneys last week to verify whether the court records need to be updated. I think you are correct with regard to processing the Notice of Change in Ownership once the water right records are updated. I will get back to you once the attorneys have had a chance to review the right.

Thank you,

Cynthia

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

From: Brad V. Sneed [mailto:bvs@givenspursley.com]
Sent: Monday, May 23, 2005 3:52 PM
To: Scott King; Cynthia Bridge Clark

Subject: RE: Motion to Set Aside, Water Bank

Scott/Cynthia:

I just looked at the SRBA records on-line and they still show McCalab Estate as owning 34-4035C. I guess the problem is that the NCAP was somehow lost after IDWR mailed it to the SRBA Court on April 13, 2001. If that is the case, then can IDWR make it right by simply sending the original NCAP to the SRBA Court with an explanation that the NCAP was first submitted over 4 years ago?

Thereafter, once the SRBA Court fixes this first mistake, then Warm Springs can submit its Notice in Change of Ownership with a copy of the deed showing that L&S sold the property to Warm Springs.

Can we get this fixed this way?

Brad Sneed

--- Original Message---

To: "Terry Scanlan" , "Brad V. Sneed"

Cc: "Mark Gates" , "Blake Quinn" ,

From: "Scott King"

Sent: 5/16/2005 11:05AM

Subject: Motion to Set Aside, Water Bank

>> Hello all,

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>> Regarding the apparent SRBA court mistake of not reflecting the approved
>> transfer in its 2nd partial decree for 34-4035C, Cynthia Bridge-Clark
>> from IDWR suggested that IDWR may be able to simply 'update their
>> records' to reflect the transferred POU/POD. She suggested that this
>> could likely be done in place of the Motion to Set Aside contemplated
>> for filing with the SRBA court. Then, the ownership change could be
>> completed, and the water bank application for the groundwater right
>> could be filed.

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>> Please let me know if you would like me to request this change.

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>> Scott

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>> Scott N. King, P.E.

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