

MEMORANDUM

Date: November 4, 2003

To: Gary Spackman

Rogen

From: Jeff Peppersack

Re: Protested Transfers – Gunderson and Bybee

I asked Sharla Cox about an old transfer at Eastern in the name of Paul Gunderson because the right involved (portion of 31-7199) is the same right involved in another transfer that I am currently working on. It appears that this same right is involved in at least 4 transfers and is the subject of an ownership dispute between Paul Gunderson and Robert Bybee. The land in question is owned by Gunderson, but Bybee claims to own the water right based on a lease agreement. The place of use involved is 33 acres in the NWSW of Sec. 25, T7N R35E. Here is the history of transfer filings as I understand them.

- Transfer 66263 (old no. 4838) – filed in 1996 by Gunderson and protested by Bybee, purpose is to change POD
- Transfer at Eastern – Sharla informs me that there is a subsequent filing by Gunderson to be processed when 4838 is completed
- Water right 31-7199 was claimed in the SRBA and split into 31-11442 (uncontested) and 31-11443 (contested with competing claim 31-11331) and ultimately decreed as 31-11442 and 31-11443 in the name of Bybee; claim 31-11331 was disallowed *Gunderson*
- Transfer 70627 – filed in 2003 by Bybee and protested by Gunderson, purpose is to change POD and POU for a portion of right 31-11443
- Transfer at Eastern – Skip sent me a copy for review before he retired, filed in 2003 as companion to Transfer 70627 and proposes to change POD, POU and nature of use; not yet advertised, I am working on a denial for this one due to ESPA issues

Transfer 70627 is currently the subject of a hearing scheduled for Dec. 9 at Eastern and Glen is the designated hearing officer. Since the applications are all related and the protests are also related, shouldn't the earlier transfers be handled prior to or in conjunction with Transfer 70627?

at least 66263 since second Gunderson transfer was not advertised yet.