

WITHDRAWAL
OF
APPLICATION FOR TRANSFER OF WATER RIGHT(S)

I/We, Tri West Leasing, Inc and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

_____ and _____,
(Applicant's Printed Name) (Applicant's Printed Name)

hereby withdraw our Application for Transfer No. 75-14748 of Water Right

(87151)
No(s). _____.

Signed this 3 day of August, 2023.

GILBERT R. KORT

Digitally signed by GILBERT R. KORT
Date: 2023.08.03 12:10:29 -06'00'

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

(Signature/Title of Applicant)

Cefalo, James

From: Gilbert Kort <grksa13@gmail.com>
Sent: Thursday, August 3, 2023 12:25 PM
To: Cefalo, James; Lafortune, Thomas
Cc: David Craig; sadie.barrett@icloud.com; raksland@msn.com; Michelle Mortimer
Subject: Re: Applications 75-15061, 75-15080, 87151, 87242 and SRBA Claims 75-15064 and 75-15065
Attachments: withdrawal-of-application-TWL.pdf; Withdrawal of Protest Aksland.pdf; Withdrawal of Protest Sadie Barrett.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Good Afternoon James and Thomas,

Attached are the conditional withdrawals of protests to water rights filings, filed on behalf of Tri-West Leasing, Inc. In addition there is a withdrawal of the original application filed by Tri-West Leasing Inc. for Transfer for POD.

If there is anything else required please let me know.

Thank you both for your help and assistance throughout this process.

Gil Kort

On Thu, Aug 3, 2023 at 11:16 AM Cefalo, James <James.Cefalo@idwr.idaho.gov> wrote:

Thanks for your input, Richard. We need to be careful to not confuse the rate on the face of the water rights with the actual demand of the system. For individual domestic rights (one home), the standard domestic rate is 0.04 cfs (18 gpm). Most of the water rights in the subdivision authorize a diversion rate of 0.04 cfs because they were decreed as separate, individual rights. Therefore, the cumulative rate authorized on the face of the individual water rights for the subdivision could be as much as 0.40 cfs (180 gpm).

As you add more homes to a community system and add a storage tank, you gain efficiency and reduce the instantaneous demand. Stated differently, not all the homes would be drawing water at the exact same moment, so the overall instantaneous diversion rate is less. The Department uses a table to determine the instantaneous flow demands in community systems. Based on the table, for ten homes without a storage tank, the in-house flow demand would be 0.15 cfs (67 gpm). Adding a storage tank would reduce this instantaneous rate even further. This only covers the rate needed for in-house use. The outside use component can vary depending on the subdivision. Many of the ten homes served by the spring irrigate using creek water or have very little landscaping around their homes. For each acre irrigated through the community system, you would add 0.02 cfs (9 gpm) to the instantaneous demand on the system.

Some of the statements in your email are not correct. I did not conduct a flow study. Rather, I performed three spot measurements of the system under poor measurement conditions. The first measurement was questionable because the measurement section was too shallow. The second measurement was better because it was a deeper cross section. I measured a flow of 0.7 cfs. We also conducted a measurement using a stopwatch and a five-gallon bucket (again, not great conditions). That method suggested a flow rate of 80-90 gpm. Based on the Department's table for community systems, and the storage tank on the system, the spring flow may be adequate to meet the water demands of the ten homes.

The Kort Family Trust filed Application for Permit 75-15080 on May 30, 2023. When we met at the pond, I mentioned that the application had been filed. IDWR published notice of the application in the Recorder Herald on June 15 and 22, 2023. The protest deadline was July 3, 2023. No protests were filed against the application.

James



James Cefalo | Regional Manager

900 N Skyline Drive, Idaho Falls, ID 83402

(208) 525-7161 | www.idwr.idaho.gov

From: Richard Aksland <raksland@msn.com>
Sent: Thursday, August 3, 2023 9:49 AM
To: Cefalo, James <James.Cefalo@idwr.idaho.gov>
Subject: Re: Applications 75-15061, 75-15080, 87151, 87242 and SRBA Claims 75-15064 and 75-15065

James,

I had the understanding that we would have another video meeting to discuss your findings after the flow study. Your study shows that we have less than a third of the water required to meet the allotment of the ten users on the system.

I am surprised that you haven't notified all of the users of these findings. Everyone getting water from this spring system should have the opportunity to voice their concerns and protest any new users if they feel it would impact their water use.

I am suggesting you send a notice to everyone on this water system and allow them to accept or protest any new users. All of them will be affected by your decision to allow this to go forward. I am surprised that IDWR isn't telling all of the users on the system of the shortfall in flow that the spring actually has.

I will protest any new users on this system due to your flow study. Two of our other neighbors that have not been involved in our meetings have expressed concern and may decide to protest this also.

I will contact my attorney and discuss your plan to go forward with this water right without everyone being included. Please do not approve this until everyone has an opportunity to be involved.

Respectfully,

Richard Aksland

From: Cefalo, James <James.Cefalo@idwr.idaho.gov>

Sent: Thursday, August 3, 2023 7:16 AM

To: Gilbert Kort <grksa13@gmail.com>; David Craig <david@questaff.com>; sadie.barrett@icloud.com <sadie.barrett@icloud.com>; raksland@msn.com <raksland@msn.com>; Michelle Mortimer <mmortimer@rex-law.com>

Subject: Applications 75-15061, 75-15080, 87151, 87242 and SRBA Claims 75-15064 and 75-15065

Dear Parties:

On June 13, 2023, we met at the Lake Creek Spring to view the community system. After conducting a measurement of the spring flow, I met with the parties at the pond. We discussed settlement options for the various contested cases, but there did not seem to be any interest in settlement. I said goodbye to the group and drove to the Faulkner property where I conducted a measurement of Lake Creek for Mr. Faulkner. As I was loading up the measurement equipment, Sadie and Wade drove by and mentioned that the parties had come to an agreement where all protests and objections would be withdrawn. It has been nearly two months since our meeting, and I have not received any withdrawals of protest. Because I was not present when the settlement was reached, I'm not sure how the group planned to implement the settlement.

Attached is a form used to withdraw protests. Because each withdrawal is contingent on the cross protests also being withdrawn, you can check the box and make the withdrawal conditional on withdrawals from the other parties. For example, Sadie Barrett could withdraw her protest against Application 87151 on the condition that the protests against Application 87242, 75-15061 and the objection against Claim 75-15064 are withdrawn. If the protests against application 87242, 75-15061 and Claim 75-15064 are not withdrawn, then Sadie's withdrawal of protest for Application 87151 would not be effective. In other words, there is not much risk filing a withdrawal conditioned on the other protests also being withdrawn.

Please let me know if any of you are no longer interested in the proposed settlement. If so, I will schedule a joint pre-hearing conference for the contested cases.

James



James Cefalo | Regional Manager

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