

MEMORANDUM

TO: NORM YOUNG

FROM: TIM LUKE

DATE: June 22, 1994

RE: RESEARCH OF WATER DISTRICT 75A RECORDS - BOB BLACKADAR MATTER  
AND REQUEST

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I have reviewed water district 75A records from 1980 through 1990 which are on file here at the state office. My research may substantiate Blackadar's claim, that Myrthus Austin owns or is entitled to less water than he has claimed in the SRBA. A water right list provided by us to the watermaster in 1992 also appears to be inconsistent with the records I have reviewed in regard to Austin's rights. In particular, our list showed two rights owned and claimed by Austin but the water district records indicate that Austin only owned one of these rights.

For your purpose, I have attached a copy of the water right list provided to the watermaster in 1992. Blackadar has complained to me that this list is in error concerning Austin's rights. Specifically, I believe he stated that Austin has never owned or used at least one of the two rights which are shown on our list, and/or that Austin is entitled to either much less water than shown on the list or no water at all.

Summary of Records Reviewed:

The water district records from 1987 through 1990 provide the most complete information about water rights and delivery. The better quality of records in this period are due in part to the more active or robust efforts of the watermaster who was elected during this period, and in part because of Eastern Region's intervention and assistance provided during 1987. The 1987 file contains a listing of water rights which was compiled and dated June 16, 1987. This list shows Austin as owning only one water right, 75-0003 for 1.44 cfs. The other water right claimed by Austin, 75-0009, is listed as being owned by the Gilmore and Pittsburgh Railroad (GPR). Along with this list is a map showing the various diversions within the district and the water rights associated with each diversion. Both the map and June 16 water rights list appear to have been prepared by IDWR. The map does show right 75-0003 as being diverted at the Farmer's Ditch. Right 75-0009 is not listed on the map. Both the watermaster report and budget report show Austin as owning right 75-0003. The watermaster report and log books confirm delivery of water to Austin under right 75-0003, and Austin received a bill for this right as well. The budget report lists right 75-0009 as owned by GPR, but GPR did not receive a bill, presumably due to non-use in the prior year. The 1987 log books and watermaster report do not show delivery or use of water under 75-0009.

Also, the 1987 file does contain a second water rights list which was compiled and dated February 12, 1973. It is not clear who prepared this list but again it looks like a Department document. This list shows Austin has owning only right no. 75-0003 for 1.44 cfs. Right 75-0009 is not even showed on this list.

Watermaster reports, water district budget reports and daily log books for years 1988 through 1990 all show right 75-0003 as owned and used by Austin. No direct references are made to right 75-0009, nor are there any deliveries recorded for this right. Deliveries under right 75-0003 range from 0.5 cfs to 1.5 cfs. The right is generally showed as being delivered in May and June, and cut sometime in June or early July.

Water district records from 1980 through 1986 are less complete and are of poorer quality than those for 1987 through 1990. The watermaster and budget reports for these years all identify Austin as a water user. These reports do not identify the water rights owned by the different users within the district. There are no daily log books for these years, other than 1981. The 1981 log books shows daily delivery of 85 inches (1.7 cfs) to Austin.

The 1992 watermaster and budget records indicate that Austin owned both rights 75-0003 and 75-0009. This notation is likely a result of the waer right list compiled by George Austiguy. The daily log books for that year show Austin's name next to right 75-0009 only, with a water right diversion rate of 1.5 cfs. No more than 1.5 cfs is reported as being delivered in that year. The 1993 annual report, budget and daily log books all identify right 75-0003 as being owned by Austin while no reference at all is given to 75-0009. The 1991 documents also refer only to Austin having right 75-0003, while no reference at all is given to 75-0009.

Finally, I have looked at the decreed places of use as recorded in our water rights database. There is some overlap in the place of use between rights 75-0003 and 75-0009. This overlap looks like the only thing connecting Austin's ownership or interest in 75-0009. Copies of the place of use descriptions for 75-0003 and 75-0009 and corresponding SRBA claims are attached.

In addition, I did discuss this matter with the present Jesse Creek watermaster last week when I visited Salmon. The watermaster described Austin's use of water on the Farmer's Ditch as primarily use of wastewater. Austin is at the end of the ditch and there is almost always some waste water for him to divert at that point, even when rights 75-0003 and 75-0009 are not deliverable. Since the Farmer's Ditch is the last diversion on Jesse Creek, I believe the watermaster indicated that most or all of the available natural flow is diverted at that point. Since Austin's right or rights have a late priority date, and because of the available return flow at the end of the ditch, it appears that the watermaster is not deliberately trying to deliver a specific quantity of water to Austin at the head of the Farmer's Ditch.