

April 27, 1992

Robin Bradshaw  
Beaver City Councilman (Water)  
Beaver City Corporation  
P. O. Box 271  
Beaver, UT 84713

Dear Mr. Bradshaw:

We have received your letter dated April 22, 1992 concerning water rights and the policies in transferring rights in the Beaver City area. We will address your specific questions but indicate that it is necessary to "weigh" each application and water right on its own merits. The annexation of property and city ordinances would have very little basis when considering the criteria for action on a pending change application.

1. The present Beaver City sprinkler system is based and build around a water right held by the city and used for irrigation within a specified area. When considering the transfer of shares of stock (i.e. Harris-Willis Canal Company) into this existing system it becomes necessary to file an application for permanent change. The individual who owns the shares of stock do not own the water right and the owner of record, the irrigation or canal company, must execute the change application transferring the use of said shares into another system. The supply of water must also be the same source and the physical distribution of the water must be possible without impairing or adversing the rights of other water users. If the irrigation or canal company is opposed to the transfer then there would be little chance for the shareholder to transfer the use without entering into a law suit to remove the subject water right, as represented by shares, from company to private ownership. The ownership of the water right is in the name of the company, while the shares of stock represent an individual's interest in the company. The basic difference is between "real" and "personal" property.

If we are concerned with a private-individual water right then the physical transfer must be possible before we could consider a temporary or permanent transfer. If a person attempted to transfer all or a portion of a water right from "Willden Slough", for instance, then the water supply must be conveyed by application and physically by pipeline or ditch from the slough area into the Beaver City system.

2. The question concerning the transfer of stock into Beaver City's system has been partially explained above. However, each company has different by-laws or articles of incorporation that may define the transfer of stock and the limitations imposed.

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Generally, the company if they agree that the transfer can be made must either execute the required change application or divorce the subject shares of stock from the company and convey by deed the amount of water right represented by the shares to Beaver City. If the shares can be separated from the company then Beaver City could execute a change application transferring the water into their system.

3. The same situation covers the transfer of part of a water right as represented by classes. The class of a water right simply defines it's position on the priority schedule. It really complicates the situation when the shares of water are described under different classes or priorities. The commissioner must have specific instructions on the distribution of water as it falls into the various classes and if part of a water right is transferred to the city then adjustments must be made to the company diversion to reduce the flow by the amount represented in the shares of stock.

4. The underground water rights held by Beaver City describe municipal use which would include irrigation use within their corporate boundaries. If the area is annexed then we could safely assume that it is within the amended boundaries of Beaver City. There is a specific limitation for each water right and the city cannot over-pump or over-use any of their sources on an annual basis. There must be caution used in years of water shortage. If the wells are pumped for irrigation and the sources that normally supply domestic water diminish to the point where they no longer meet those needs there must still be sufficient water left under the well limitations to make up the difference.

5. Beaver City through their own ordinances can regulate the distribution of water to newly annexed areas. There is an obligation for the city to meet the domestic needs within their corporation boundaries but under some circumstances can require the new users or developers to help supply the additional water. There are some municipalities that require developers to deed sufficient water right to the city to meet the proposed duties in subdivisions.

These are brief answers to some complicated questions. We have answered them in general terms but could be more definite to additional, specific questions. If we can be of further assistance please contact our office.

Yours truly,

Gerald W. Stoker, P.E.  
Regional Engineer

Harris Willis



77-144

2.0 Acs. 1903

award 5c & 8b

water resources.

77-184

8.09 Acs. 1890

award 5b

devoted to water resources.

77-183 -

Harris Willis

13.0 Acs. 1890

Awards 9a & 9c

77-185 - Harris - Willis.

1.11 Acs. 1890

77-195 -

1.56 Acs. 1870

award 5a

77-197

2.0 Acs.

1903

award 9b.

N 770 ft. W. 80 ft. S4 cor Sect 18 T29S R6W

Circuit case law - appealed to Supreme Court.

Three  
Clubs

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