

David or James or Margaret Hagenbarth Estate
PO Box 1128
Dillon, MT 59725

September 29, 2004

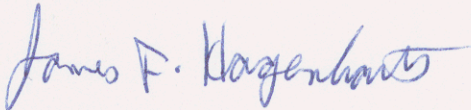
Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RE: Evidence of Priority for SRBA Water Right Claim 21-12854

Dear Allen:

I contend that the evidence originally submitted for this claim provides substantial proof that our predecessors indeed began using water from the claimed source as early as the claimed priority and this use has continued to the present day. The evidence submitted in the original claim clearly substantiates these facts. The water right being claimed is based on the diversion and use of water which flows from a spring, not Sheridan Creek, and is diverted westerly away from Sheridan Creek. The flow of this spring may not have been specifically mentioned or included in the decrees on Sheridan Creek because it has been used as a separate source from the very beginning of water diversion in the area. For this reason I request that you reconsider your decision and recommend this Notice of Claim in the ongoing adjudication. Thanks for your consideration.

Sincerely,



James F. Hagenbarth



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION
June 25, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

**DAVID OR JAMES OR MARGARET HAGENBARTH ESTATE
PO BOX 1128
DILLION MT 59725**

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 21-12854

RECEIVED

OCT 04 2004

Dear Claimant (s):

Department of Water Resources
Eastern Region

The Idaho Department of Water Resources is nearing the beginning of water rights review in Basin 21, the Henry's Fork drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

Your claim, as referenced above, claims a Priority Date of NOV 8 1893, from SPRING.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some Examples of Documents Which May Be Evidence of the Priority Date". **PLEASE READ THE ENCLOSED PAMPHLET.**

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.