



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 20, 2003

DUANE WILLIAMS
CHERYL WILLIAMS
8403 W BUCKSKIN RD
POCATELLO ID 83201

RE: Preliminary recommendation for Snake River Basin Adjudication (SRBA) claim 29-00448E

Dear Mr. and Ms. Williams,

Through the Notice of Error process, several questions were brought up that resulted in IDWR re-reviewing the preliminary recommendations made for split portions of decreed rights 29-00448 and 29-00449.

Evidence collected does not support historical flood irrigation of your property from the South Fork of Pocatello Creek dating back to the decree. An affidavit signed by Monte Casper states that, **"There was never any irrigation on the Williams property until recent years when they began sprinkling out of the creek."** Speaking with Monte Casper, he said that at one time he tried to irrigate the south side of the creek but could not push the water past a rise in the land in order to reach your property.

At this time I do not have enough evidence to support recommending that a portion of historical right 29-00448 is applicable to your property.

The file indicates that you purchased the claimed place of use in December of 1981 and during our conversation on 10/3/01 you stated that at the time of purchase the land was not irrigated. Any new appropriation of surface water after May 20, 1971 requires going through the permit process as defined in Idaho Code 42-201.

Thus, evidence indicates that appropriation of South Fork of Pocatello creek for irrigation purposes on your property commenced after the mandatory permit statute.

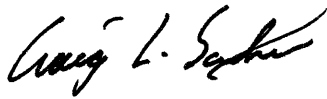
Without further evidence showing that the South Fork of Pocatello Creek water was used on your property at the time of the 1925 decree and used continuously to the present, IDWR has no choice but to recommend this right as disallowed.

One option you could take is to contact the Idaho Falls office and apply for a new permit for use of South Fork of Pocatello Creek water. If you can prove that use commenced

prior to November 19, 1987 (the commencement of the SRBA), a new permit can be issued.

I apologize for this confusion. Please feel free to contact myself or my supervisor Ernie Carlsen in the Idaho Falls office (208) 525-7161 if you have further questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig L. Saxton". The signature is fluid and cursive, with the first name "Craig" being the most prominent.

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau