



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 23, 2003

ERNEST J LARSEN
SUSAN LARSEN
5758 W HWY 91
POCATELLO ID 83204

RE: Notice of Error reply for Snake River Basin Adjudication (SRBA) claim 29-02342B.

The Idaho Dept. of Water Resources received the Notice of Error (NOE) reply you sent on 4/12/03. I reviewed the NOE and the file and will try to address your concerns.

29-02342B:

1) You stated that your name in the contact record was incorrect and should be changed from "Ernest J Larsen" to "Ernest J. Larsen".

This change has been made in our database on the claim and recommendation. I apologize for this error. I believe there was some sort of "glitch" in the system since all available records show that the contact record should be "Ernest J. Larsen"

2) You stated that the total recommended acreage should be increased from 6.1 acres to 7.1 acres and thus increasing your diversion rate.

After reviewing the files and historical aerial photographs, I feel available evidence supports change. However, on 5/23/01 you signed an amended claim that reduced the claimed irrigated acreage to 6.1 acres from the original 8 claimed (copy enclosed). I solicited this amended claim from you to better define the irrigated POU and sent you a map of what I was potentially planning on recommending.

So, the unfortunate thing is now we need to amend the claim again to change the claimed acreage back. I have filled out the new amended claim for 7.1 acres as you requested. I also changed the claimed diversion rate to 0.14 cfs. I am including another map to show the acreage distribution. Please look over the amended claim and initial any changes you wish to make. When satisfied, sign the claim in front of a notary and return it to this office as soon as possible.

Please note that this is your claim and you paid for filing fees of up to 8 acres. You can fill out the claim however you want. I feel there was some confusion with the first

amendment that might have lead to this issue. My recommendation will be based on what I can support and as I stated before I feel I can support recommending 7.1 acres of irrigation as you requested.

3) You asked about your domestic right and where the copy of that was.

Right 29-11706 is your domestic and stockwater right. This was partially decreed by the SRBA court on 6/18/1998 and should have been sent copies of that partial decree at that time. This means that this right is perfected and no further action needs to be taken. For your convenience I am sending you a copy of right 29-11706.

4) You addressed the issue of the 1992 moratorium and forfeiture.

IDWR is aware of your concerns with Larry Porter and the neighbors in the surrounding area. Your letters of concerns are on file. I would like to address a couple of points that might help answer some of your questions.

The 1992 moratorium was put in place to halt new appropriation of surface and ground water for irrigation purposes. Drilling permits are still issued for new wells for domestic purposes and new irrigation wells can be drilled by filing transfers to add a new well/point of diversion.

As an example, it is not uncommon for someone to have a water right license for 180 acres with one well. Then for example the property is subdivided to 4 forty acre parcels. The new owners then file a transfer to add a new point of diversion (well) to irrigate their 40 acre parcel. This can be done as long as all the wells in combination do not exceed the original licensed diversion rate. This is similar to the process that Larry Porter took to irrigate his property.

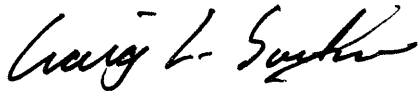
As far as forfeiture and or abandonment of a water right, I have included copies of Idaho code that address that. I would particularly refer you to page 55 under Idaho Code 42-222 that speaks of resuming a right.

I hope this helps answer at least some of your questions. However, if you still feel that water users in your area are appropriating water when they should not be, you will be notified at the time the directors report is issued and will have a chance to object to your neighbors water rights and be heard by the SRBA court.

In addition, any new transfer filed is listed in the legal section of your local paper in order to notify water users in the area so they can file a protest if they feel the transfer will cause injury to themselves or other water users.

Please feel free to contact me with any questions.

Respectfully submitted,



Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau

6-19-03
Called and spoke
with Mr. Berger
and said to need
Amended claim in
the court tomorrow.
(Friday 6-18-03)