



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 22, 2006

HOFSTETTER LAW OFFICE
DANA L HOFSTETTER
608 W FRANKLIN ST
BOISE ID 83702

RESPONSE DEADLINE
MARCH 17, 2006

Re: SRBA claims 3-2000 & 3-4009

Dear Claimant:

In the process of reviewing the Snake River Basin Adjudication (SRBA) claims that were filed for the above water rights, questions regarding these claims have arisen. Although direct answers may be confused through changes of ownership, information about the current use of the system may clarify these concerns.

Because 3-2000 is based on a license, there is historical proof confirming this water right on record. Only the first two items need clarification in order to recommend 3-2000. The claim for 3-4009 is based on a statutory claim and additional proof is required in order to recommend it as claimed. Each item discussed in this letter relates to proof that must be submitted in order to recommend claim 3-4009. Without these items claim 3-4009 will be recommended to the SRBA court as disallowed.

3-2000 & 3-4009:

The first item that needs clarification for both claims is the irrigated place of use. Based on available aerial photography from 1949 to 2004, only 75 acres of the island appear to be irrigated. Both 3-2000 and 3-4009 claim 81 acres. IDWR recommendations will reflect the irrigation of 75 acres unless evidence is provided to support irrigation of additional acres. The enclosed map outlines the 75 acres that appear irrigated. If all of your irrigation is within these boundaries, there is no need for you to respond to this matter. If, however, you irrigate outside of these boundaries, please indicate on the map where additional water is used and include a statement describing the water use in these areas.

The second item that needs clarification for both claims is the point of diversion. The enclosed map shows the original point of diversion from the licensing exam for 3-2000. Information in the claim files suggests that the point of diversion may have been changed. If the pumping station is still located at its original point, there is no need to respond and we will recommend the point of diversion at this location. If the point of diversion has been moved, please indicate on the enclosed map the current point of diversion for the above water rights. We will need evidence supporting that the pumping station was moved prior to 1987. The enclosed pamphlet entitled "Evidence of Priority" suggests documents that may be submitted as evidence of a change. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit. A form is provided for your convenience.

3-4009:

The two items relating specifically to claim 3-4009 are the diversion rate and historical evidence. When 3-4009 and 3-2000 are used in combination, the total diversion rate is 3.12 cfs. This diversion rate is in excess of the proven historical diversion rate as well as the IDWR standard allotment of 0.02 cfs, or one miner's inch, per acre irrigated. **If you wish to pursue diversion beyond 1.5 cfs, it must be proven that additional diversion is possible, necessary, and historically reasonable.**

February 22, 2006

HOFSTETTER LAW OFFICE

To indicate that it is *possible* we are asking that you submit the known diversion rate of the system. If the specific diversion rate is unknown, a description of the current system (including pump horse power, lift from the river, and measurements of the ditches) would allow us to make estimations related to the current diversion rate.

To show that additional diversion is *necessary* an analysis of your irrigation system is needed. Answering the enclosed Irrigation Flow Rate Questionnaire will provide the information necessary to analyze your system to determine if it merits the use of more water than would normally be recommended. A page of instructions for answering the questionnaire has been included. Please note that the Natural Resources Conservation Service (formerly known as the Soil Conservation Service) and other professionals may be of assistance in helping you understand the technical questions contained in this form.

To prove that it is *historically reasonable*, evidence supporting the claimed priority date will need to be submitted. This must show that prior to July 1, 1954 the system was capable of diverting water beyond 1.5 cfs. Again, the pamphlet "Evidence of Priority" may be helpful.

In summary, if you agree with the following, you are not required to submit any evidence:

- Only 75 acres are irrigated as described on the enclosed map
- The point of diversion is as indicated on the enclosed map
- Only 1.5 cfs are diverted from the Snake River

If you believe that your water rights should be changed from what is described above please respond with a description of the change you think should be made and evidence that can be used to support the change.

- Evidence that more than 75 acres are irrigated
- Location of current point of diversion **and** evidence to support a change if necessary
- Estimation of current diversion **or** description of current irrigation system
- Responses to the Irrigation Flow Rate Questionnaire
- Evidence supporting the July 1, 1954 priority date for the use of water beyond 1.5 cfs

PLEASE NOTE: If this evidence is not submitted, IDWR will recommend the SRBA Court decree claim 3-4009 be disallowed. IDWR will also recommend the SRBA Court limit claim 3-2000 to 75 acres and leave the point of diversion in its original location. If you decide to submit evidence, it will be to your advantage assure it is clear and convincing. It is also important to note that many of the required documents will take some time to obtain; therefore, it is in your best interest to begin immediately collecting this information.

Please submit the required evidence and information by the date shown above, referencing all documents with the corresponding claim numbers. According to convenience, you may submit the evidence as each piece is obtained or you may submit it all at once. If you should decide to return the materials in anything other than the enclosed mailer, please include the notation "ATTN SRBA Claim Number 3-4009" on the front of the mailer. If you have questions not covered by this letter or the enclosed documents, please contact this office. If you wish to call, our toll free number is 1-800-451-4129.

Sincerely,



Jennifer Dean, EIT
Adjudication Bureau

Enclosures

CC: GEORGE E COLWELL
3990 HWY 52
PAYETTE ID 83661