



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

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Director

June 5, 2003

ASH GROVE CEMENT CO
6720 SW MACADAM AVE
STE 300
PORTLAND OR 97219-2312

RE: Notice of Error Reply for Snake River Basin Adjudication (SRBA) preliminary recommendations 29-07076 and 29-04069.

Dear Ash Grove Cement Co,

This office received the Notice of Error (NOE) reply you submitted on March 24, 2003 signed by Craig A. Puljan. I will address your requests stated in the NOE below:

29-04069:

1) The notice of NOE reply form did not mention a problem with this recommendation directly, but in the NOE submitted for 29-07076 you stated that both the CFS (diversion rate) and AFY (diversion volume) was in accurate. The request was to increase the diversion rate to 0.78 cfs and to remove the AFY restriction. Despite that this request was submitted on the NOE reply form for 29-07076, I assume that you meant to address SRBA claim 29-04069 since that claim originally claimed a diversion rate of 0.78 cfs.

The SRBA claim was based on a statutory claim (also referred to as a beneficial use claim) 29-04069. A claim based on beneficial a claim to a water right that could have been developed through historical practice but has not been verified by IDWR. Thus all aspects of the claim need to be verified.

Diversion Rate:

On 5-29-02 I met with Craig Puljan and he put me in contact with James to show me the system. Claim 29-04069 claimed use from wells described as Well #1 and Well #2. James shut off everything except well #1 and the water meter measured between 100 and 200 gallons per minute. We did the same with well #2 and measured capacity of 100 gallons per minute. My guidance is to recommend the maximum diversion rate so I took the 200 gpm and the 100 gpm totaling 300 gpm.

$$300 \text{ gpm} / 448 \text{ gpm} = 0.67 \text{ cfs}$$

IDWR can only recommend a diversion rate up to the capacity of the system. Thus the diversion rate of the combination of the capacity of the two wells was recommended for SRBA claim 29-04069 at 0.67 cfs.

Diversion Volume:

IDWR requires a diversion volume on all water rights diverted from a groundwater source. In reviewing my calculations, it appears that I originally made an error in the preliminary recommendation by recommending a diversion volume of 702 AFY when it should have been 485 AFY. The diversion volume is calculated as follows:

1 cfs flowing for 24 hours = 1.9835 acre-feet

Thus:

$0.67 \text{ cfs} \times 1.9835 \times 365 \text{ days} = 485 \text{ af}$

Thus the diversion volume recommended is the volume of water that would be diverted if both well #1 and well #2 ran continuously for 24 hours a day, 365 days a year.

Note that the new diversion volume is reflected in the amended preliminary recommendation for 29-04069. I apologize for this previous error on my part.

29-07151:

On the NOE submitted for 29-04069 Craig Puljan stated that he did not receive a preliminary recommendation for 29-07151.

That is because that permit lapsed and no SRBA claim was filed for it. For your information, I am enclosing two letter of notification sent in 1978 stating that permit 29-07151 had lapsed and is no longer valid.

29-07855:

On the NOE submitted for 29-04069 Craig Puljan stated that he did not receive a preliminary recommendation for 29-07855 (Well #3)

This water right was developed after the commencement of the SRBA (November 19, 1987), and thus a SRBA claim was not required. No claim was filed for 29-07855 so you did not receive a recommendation on this right. However, the license is still a valid water right.

29-07076:

The NOE reply submitted for this claim requests an increase in diversion rate and removal of a diversion volume limitation on the preliminary recommendation.

As stated above, I think that this was meant to address the SRBA preliminary recommendation for 29-04069, however if it was meant for 29-07076, I will address that issue.

29-07076 was licensed on January 9, 1974. At this time the water use under this right was verified. I cannot increase the recommended diversion rate or remove the diversion volume since it was previously defined in the license.

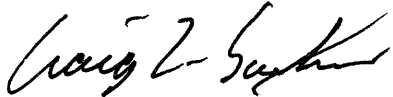
Conclusion:

I hope this helps to address your questions concerning the preliminary recommendations sent out at the beginning of the year.

If you still disagree with the recommendations, you will be notified at the time the director's report is issued and at that time will have a chance to object and be heard by the SRBA court.

Please feel free to contact me with 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

Enclosure(s)