



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

July 5, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Ray Infanger
Rt. 1 Box 174
Salmon, Idaho 83467

Re: Adjudication Claim 29-4461

Dear Mr. Infanger:

Thank you for talking with me on the telephone about this adjudication claim, for use of water on your property in Pocatello. This letter confirms the information we agreed to provide one another.

1. Attached is a copy of your adjudication claim, with the 1949 deed showing purchase of the property, and the affidavit showing 1956 development of the well for household use.
2. You requested that I explain to you my "interpretation of the law" under which I will review this water right. The Idaho Code under which I operate is 42-1401 through 42-1428. Enclosed is a copy I obtained from the internet today. My day-to-day investigation of water right facts is based upon instructions and policies developed by my supervisors, in accordance with these sections of code. I personally do not interpret the law, nor make legal determinations. My role is to investigate *technical* facts relating to historical water use.

In your particular case, once I have obtained the facts regarding your water right development, I will seek guidance from Deputy Attorney General Candice McHugh. As we discussed on the telephone, the history of the development, when water uses were perfected, and by whom, will in part determine whether the water rights are governed by the laws relating to tribal rights, or by the state laws relating to non-tribal citizens of the state. I personally don't know the appropriate state and federal codes and court decisions she will refer to, so I can't provide copies for you.

3. You asked that I relay to Ms. McHugh a request that if she has a copy of the book that you and she discussed recently, could she please send you a copy of the book. I will send Ms. McHugh a copy of this letter, so that

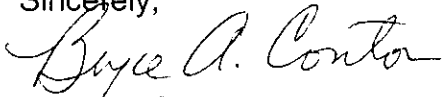
she may respond to this request. The book was written by a judge on the Ninth Circuit Court

At first, I believed you were referring to the settlement between the tribe and the state, regarding tribal water rights. That is what I meant when I said Ms. McHugh has a copy of the book. After our conversation, I realize that this may not be what you referred to. I trust that Ms. McHugh will recall the book you talked about.

4. We discussed the fact that I needed some particular information from you to complete my investigation. I need to know:
 - a. When was the irrigation developed, and by whom? Was it developed all at once, or were more acres added over time?
 - b. When was the trailer park developed, and by whom? Was it developed all at once, or did it grow over time?
5. In reviewing the copy of the deed, I realize that I also need documentation that either or both Mr. or Mrs. Wight, from whom you purchased the lands, was a member of the tribe. If neither of them was a tribal member, I need documentation of the last owner of the land who was a member of the tribe.
6. I also forgot to discuss the fact that the aerial photography I have does not give a good indication of the acres that were actually irrigated in 1987. The Farm Service Agency (FSA) no longer makes its maps available to us. Could you please get me a copy of an FSA map from 1987, with a notation by the clerk that it is an FSA map and what crop year is shown, so that I may accurately report the 1987 irrigation on this land?

Thank you for your help with this review. I hope the information I have provided is helpful. I look forward to receiving the additional information from you to make sure the adjudication recommendations accurately reflect your water right.

Sincerely,



Bryce A. Contor
Senior Water Resource Agent