



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

October 30, 2006

Chris Barney
Doris Barney
3660 McDonald Rd
Wapota, WA 98951

RE: SRBA Claim No. 24-10727

Dear Mr. & Ms. Barney:

I have corresponded with you previously concerning the above-listed water right claim that you have filed in the Snake River Basin Adjudication. Representatives of the Idaho Department of Water Resources ("IDWR") and of the Wyoming State Engineer's Office have recently had the opportunity to meet and discuss your claim, as well as other similar claims.

As you know, IDWR considers your right to be a Wyoming water right, and filing a claim with the SRBA is not necessary, but is allowable under current Idaho law. Any recommendation provided to the SRBA Court by IDWR would only include the element(s) of your right that are actually located in Idaho. With regard to your water right, IDWR would only recommend the place of use element of your water right, with remarks indicating that this right is a Wyoming water right. Any description of elements of the right located in Wyoming would be for informational purposes only and would not be enforceable under Idaho law. Moreover, any recommendation issued by IDWR is limited to what is provided for in your Wyoming Certificate.

In the meeting between representatives of IDWR and the Wyoming State Engineer's Office, we were unable to resolve the discrepancies between how your right actually appears to be used in Idaho and how your Wyoming Certificate describes the right. If you are actually irrigating more acres than are provided for in your Wyoming Certificate, I would suggest that you contact Jade Henderson, Wyoming Water Superintendent, at (307) 279-3441 to discuss how you may be able to file for an enlargement of your water rights. IDWR does not have the authority to change the

description of your water right and does not have the resources to determine the proper place of use.

Since any decree issued by the SRBA Court would essentially be duplicative of your Wyoming water right, the best course of action for you to take may be to withdraw your SRBA claim. A water right issued in Idaho is no more valid than a water right issued in Wyoming, and would carry no greater legal weight. Since the decision you make in this regard involves complicated multi-jurisdictional concerns, you may wish to consult your own attorney about it. If you wish to withdraw your SRBA claim, I have enclosed a Request for Withdrawal of Claim form for your convenience. IDWR will refund the filing fee that you submitted with your SRBA claim.

If you desire to move forward with your SRBA claim, additional information will likely be needed, such as deeds and potential title searches and surveys, to properly report your water right. This information will also be required by the State of Wyoming so that your Wyoming Certificate properly identifies the elements of your water right.

We are working closely with the Wyoming State Engineer's Office to make certain that your water right is accurately reported in both states. In that regard, we are mindful to attempt to prevent any additional burdens or costs upon claimants, along with making certain that you have properly recorded water rights that will be valid in the future.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nick Spencer", with a long horizontal line extending from the end of the signature.

NICHOLAS B. SPENCER
Deputy Attorney General

Enclosure

cc: Cindy Bird
Ernie Carlsen
Jade Henderson

REQUEST FOR WITHDRAWAL OF CLAIM

Name of Claimant:
(Please Print)

Mailing Address:

Amount:

\$

Receipt No.:

County of Water Right:

Claim No(s):

I wish to withdraw the Notice(s) of Claim to a Water Right which number(s) appear above and for which I previously paid a filing fee to the Idaho Department of Water Resources. I do ___/do not ___ request a refund of the filing fee. If a refund is requested I have attached an explanation of the justification for granting a refund.

(Signature of Claimant)

(Date)

(Signature of Claimant)

(Date)

(Signature of Claimant)

(Date)

Return to:

Idaho Department of Water Resources
Adjudication Section

For IDWR Use

Approval Region
Approval State Office
Data Entry
Claim File

Initials

Date



THE STATE

OF WYOMING

DAVE FREUDENTHAL
GOVERNOR

PATRICK T. TYRRELL
STATE ENGINEER

HARRY C. LaBONDE, JR.
DEPUTY STATE ENGINEER

Board of Control

ALLAN CUNNINGHAM
ADJUDICATION OFFICER

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jhende@seo.wyo.gov

RANDY TULLIS, SUPERINTENDENT
WATER DIVISION I
MICHAEL WHITAKER SUPERINTENDENT
WATER DIVISION II
LOREN SMITH, SUPERINTENDENT
WATER DIVISION III
JADE HENDERSON, SUPERINTENDENT
WATER DIVISION IV

26 October 2006

Chris & Doris Barney
3660 McDonald Rd
Wapato, WA 98951

Re: Idaho lands under Wyoming water rights
in Freedom Canal

Dear Mr. & Mrs. Barney:

Working closely with Idaho along our shared border, your water right claim for Idaho lands in their Snake River Basin Adjudication comes to our attention. We are writing to let you know the Freedom Canal already has Wyoming water rights adjudicated for irrigation & stock use in Idaho, as a Wyoming diversion from Salt River. This is also true of the nearby Kirkbride Ditch

In contrast to other areas where an existing interstate decree or compact already designates otherwise, both states agree that the state in which the canal diverts from the natural stream is the state which has jurisdiction to permit, adjudicate, and administer the water right for that diversion (regardless of which state the artificial conveyance and water's use attaches to).

Because your right to natural flow originates from and is recorded by Wyoming, your Idaho claim is an unnecessary duplication that can mislead you and others to expect that your usage on Idaho land should be subject to Idaho priorities and regulation. Wyoming therefore encourages you to withdraw your Idaho claim.

If you have questions about whether your full use in Idaho is covered by a Wyoming adjudication, please send me a copy of the legal land description on your deed so we can do a water right search of Wyoming State Engineer's Office records for that land. We can also provide copies, and can explain other procedures such as how to file for an expanded Wyoming water right to unpermitted lands or additional uses.

Both states will appreciate your attention to this matter, and your thoughtful withdrawal of the Idaho claim.

Best regards,

Jade Henderson
Wyoming Water Superintendent

copies: Ed Bruce, Water Commissioner
Kevin Wilde, Lead Hydrographer
Idaho Department of Water Resources