



State of Idaho

DEPARTMENT OF WATER RESOURCES

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JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 4, 2006

FRITZ HAEMMERLE
HAEMMERLE & HAEMMERLE
PO BOX 1800
HAILEY ID 83333

Re: Snake River Basin Adjudication (SRBA)
Preliminary Recommendation - #73-187B

Dear Mr. Haemmerle:

Mr. Thomas asked me to respond to you in his letter dated November 21, 2006, concerning the description for water right #73-187B. The remarks have been modified and made largely consistent and verbatim with the conditions in Transfer 814. You can compare the remark on the enclosed recommendation with the copy of Transfer 814 I believe you have. This remark was a condition for the approval of the transfer in 1953 to the property Mr. Thomas acquired.

IDWR has no recent records of an alleged conflict between Mr. Thomas and Sulphur Creek Livestock beyond the reference made by Ms. Brown. The record should be clarified with respect to the history of the Big Gulch Right 73-187, however.

Right 73-187 was decreed earlier for one ranch and place of use (Sulphur Creek Livestock), owned by O. H. Swauger. Mr. Thomas' predecessor, O.H. Swauger, whose name is shown on Transfer 814 sought to split the right and move part of it to the ranch Mr. Thomas now owns. Ivan V. Walton and others protested, and the matter was not settled quickly or without hearing. These events are certainly historic signs of conflict over use of Big Gulch Creek water. The decision of the state engineer, after hearing the issues, granted the transfer with conditions in terms of administering the water rights of 73-187 that is shown in the language of Transfer 814 and incorporated into the recommendation.

I have appreciated talking to Mr. Thomas who has been thorough and diligent in supplementing the record for his claim. I look forward to meeting you again and Mr. Thomas to work to resolve any differences of opinion we may yet have on the description of Water Right 73-187B.

Sincerely,

Donald V. Shaff, MPA
Adjudication Bureau Chief

DVS:ss:state

Enclosures:

Revised Preliminary Recommendations #73-187A and 73-187B

C: E. Thomas