



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Interim Director

May 29, 2007

RANDOLPH CALVIN STONE  
PARSONS SMITH AND STONE LLP  
PO BOX 910  
BURLEY ID 83318

**RESPONSE DEADLINE**  
**June 29, 2007**

45-14027

Re: Clarify intent of claim

Dear Mr. Stone:

I have received the above-mentioned Snake River Basin Adjudication (SRBA) stockwater claim for review and have some questions.

***Idaho Code 42-111, Domestic purposes defined:***

"The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day."

Based on the above definition and elements of the claim, I am uncertain whether the intent is to claim *de minimus* stockwater. There are two options available to your client:

1. If the claim is for *de minimus* stockwater for 670 head cattle, I can recommend the claim with no additional changes, but would have to reduce the recommended flow rate to 0.16 cfs and limit total diversion to 13,000 gallons per day or less. Your client would be refunded \$100 since it appears your client paid a late fee and we do not charge late fees for *de minimus* claims.
2. If the intent of the claim does not fit the definition of *de minimus* above and your client wishes to pursue the full claimed rate of 0.972 cfs, there are two additional items needed: evidence of priority and additional fees. Evidence of priority and variable fees are explained below.

The claim indicates water usage is based on "Beneficial Use." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed. Proof must be provided by the claimant supporting the priority date claimed and the historic use of the water.

Enclosed you will find a pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. It will be to your client's advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit. I have enclosed an affidavit form for your convenience.

There is a variable fee associated with non-*de minimus* uses based on acreage (for irrigation claims) or flow rate. The variable fee based on flow rate is \$200 per 1.0 cfs. Since the claimed flow rate is 0.972 cfs, the additional fee needed from your client would be \$194.40.

**PLEASE NOTE:** Should your client choose to claim non-*de minimus* stockwater and submit no evidence of priority or additional fees, IDWR will recommend the claim as *de minimus* to the SRBA Court.

If your client wishes to claim non-*de minimus* stockwater, please submit the required evidence supporting the priority date and the historic use by the date shown above, along with payment for the additional fees, referencing all documents with the corresponding claim number. I have enclosed a pre-addressed postage-paid envelope for your convenience. If you have questions not covered by this letter or the enclosed pamphlet, please contact me at (208) 287-4907. If your client decides to claim stockwater as *de minimus*, I would appreciate a phone call informing me of the choice.

Respectfully submitted,

Monica P. Van Bussum  
Sr. Water Resource Agent  
Adjudication Bureau

Enclosures

cc: Manning Ranches, Inc. w/o Enclosures