



State of Idaho

DEPARTMENT OF WATER RESOURCES

168 South Main Street • P.O. Box 935 • Soda Springs, Idaho 83276

Phone: (208) 547-3993 • Fax: (208) 547-3939 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

October 23, 2007

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
1000 Riverwalk Drive, Ste 200
Idaho Falls, ID 83405

RECEIVED

OCT 23 2007

DEPARTMENT OF
WATER RESOURCES

REF: Late SRBA Claim on 29-13726

Subject: Evidence of Priority and point of diversion

Dear Rob,

I received your letter dated October 22, 2007 in reference to evidence of priority on the late claim for the extended season of use. After reviewing the evidence I've determined that your documentation isn't sufficient to prove beneficial use of the water. Having the ditch go past their property isn't sufficient evidence to prove that they put it to beneficial use. Their partial decrees were issued with a remark that would allow them to divert the water as early as April 1 and as late as October 31st provided other elements of the right are not exceeded.

According to the partial decrees that were issued on 29-170, 29-171 and 29-12064 only the point of diversion under 29-170 is incorrect. When I researched the point of diversion I discovered that the recommended spatial information was correct and that Allen Ruberry's notes in the file indicated that all three points should be the same. I spoke to Ray Williams to see if we could correct this under a clerical error. Ray is going to write a letter to the court explaining the problem and ask that they set the partial decree aside so we can amend the director's report to reflect the correct point of diversion.

If you have any questions please don't hesitate to give me a call at 547-3993

Respectfully,

Cindy E. Bird

Cc: Chris Bromley, Deputy District Attorney
Ray Williams, Paralegal



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