

March 28, 2007
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Department of Water Resources
Eastern Region

Idaho Department of Water Resources
Ms. Cindy E. Bird
Adjudication Bureau
15 West Center Street
Soda Springs, ID 83276

RE: Snake River Adjudication, Basin 27, United States Objection to thirteen claims as listed herein

Dear Ms. Bird:

The United States has directed HKM Engineering to attempt to reach a settlement on thirteen claims in which the U.S. had filed objections. That process is on-going, however HKM has found difficulty in reaching an agreement on some of the thirteen claims. That difficulty is basically due to the differences between HKM's findings and IDWR's Recommendations. Of those thirteen claims HKM has developed a file for eleven of the claims for your review. Not included in these eleven files are claims 27-102 and 27-12108. Those claims are in the process of settlement or have as yet not undergone negotiation investigations.

We have developed a summary datasheet for each of the eleven claims that identifies key issues and information explaining our position on each claim. The information was derived from IDWR documents, notes and comments, HKM's stereo aerial photography analysis results and HKM's field investigations. Included are HKM's recommended acreage and diversion rates associated with our analysis and findings.

HKM is respectfully requesting you to review our findings on the eleven water right recommendations to determine if there is anything you can do to help resolve our differences. If not, future hearings and additional litigation costs will unfortunately be the result. The main issue surrounding these claims is their idle condition and our unwillingness to accept the IDWR recommended irrigated acreages for claims that we believe have been idle since 1980 and longer.

Each of the eleven claims and its associated recommendation is unique, but all of them have a long history of inactivity, or no historic activity, for all or part of the claimed place of use. If our findings indicated current or recent irrigation had occurred as of 1987, the U.S. did not object to those acres.

In one case, a claimant wants to transfer a water right that has not been used in over 30 years as of 2003 (per IDWR documents), to a new proposed wetland project. The USDA indicates the wetland project will be entirely natural with no man induced diversion of water. The claimant also stated he has no interest in irrigation. We have been unable to negotiate with the claimant due to the acreage recommended by IDWR.

We have found some claims to be inaccurately mapped and the claimant was agreeable to changing the place of use to match the correct place of use. That occurred with claim 27-102 and we prepared a map and submitted it to IDWR. We anticipate that claim to be settled due to insignificant differences.

There are also claimed lands being sub-irrigated without a man-made distribution system or located above the claimed ditch and can't be irrigated. We believe these areas should be deleted from the IDWR recommendations.

For Settlement Purposes Only

Idaho Department of Water Resources
Ms. Cindy E. Bird
March 28, 2007
Page 2

These types of problems need to be addressed so settlement talks can move forward with the claimants and their attorneys. We, at HKM, do believe our goals are the same as yours and we appreciate your time in helping to resolve these issues. If a settlement can be attained we anticipate a significant cost benefit to all parties in this adjudication.

There are six claims where HKM cannot identify current or historic (post 1980) irrigation and recommends that the claims be awarded no irrigated acres. The claimants are not willing to withdraw their claim if the IDWR maintains their current acreage recommendation. These claim numbers are: 27-49, 27-76, 27-2069, 27-2075, 27-2078, and 27-12045.

Our analysis of the remaining five claims indicate partial irrigation on the claimed lands and we are negotiating with some of the claimants at this time. These claim numbers are: 27-54, 27-2108, 27-2026, 27-2066 and 27-11317. The place of diversion and place of use will need to be modified on these to reflect the correct locations. We have also included some maps from our files on these claims for your review.

HKM would like to schedule a conference call and work session with IDWR personnel to discuss the above claims. We believe that would help us both understand our differences and hopefully resolve them. It may be necessary to schedule a field trip with IDWR and the claimants if possible this field season. We believe the field trip would help to resolve a number of these discrepancies. The window of opportunity for settlement requires that we address these issues at your earliest convenience. The United States has requested that we have responses completed by April 20, 2007.

Please call me with any questions you may have after you have had an opportunity to review our enclosed analysis, findings, and exhibits.

Respectfully submitted,

HKM ENGINEERING INC.


Loring Gurney

Enclosures

cc: Peter Monson
U.S. Attorney

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