



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

February 18, 2009

BOB ROWLAND
1141 ROWLAND RD
POCATELLO ID 83204

RE: Motion to File Late Notice of Claim in the Snake River Basin Adjudication (SRBA)
Claim Numbers: 29-4443, 29-4444, and 29-4445

Dear Mr. Rowland,

On January 29, 2009, the Idaho Department of Water Resources (IDWR) received copies of the three *Motion(s) to File Late Notice of Claim* that you submitted to the SRBA court. My initial review uncovered some issues that I wanted to bring to your attention before your hearing with the SRBA court on 4-21-2009.

29-4443:

I have gone through the documents sent to IDWR as well as the available court documents and it does not appear that you actually submitted a completed adjudication claim for 29-4443 along with the motion. I see a copy of the original statutory claim as well as a computer generated printout of that historical record, but no adjudication claim.

Secondly, it appears that the domestic portion of the original statutory claim 29-4443 has been claimed and partially decreed under water right number 29-4443A (enclosed).

Finally, the motion you submitted for 29-4443 indicates you paid a \$25 filing fee. The \$25 filing fee indicates that the claim is for small domestic and/or stock water use where use doesn't exceed 13,000 gallons per day, or any other use (including Industrial) where the total diversion rate doesn't exceed 0.04 cfs and 2,500 gallons per day as defined in Idaho Code 42-111. I am bringing this to your attention because the original statutory claim 29-4443 appears to claim elements that exceed the parameters described in Idaho Code 42-111.

With that said, I have prepared a completed claim for your review. The claim enclosed reflects the same elements that are on the original statutory claim for 29-4443 that you submitted with the original motion. It includes domestic use despite that it has already been recommended under 29-4443A. The claim includes industrial use which without additional filing fee, would be reviewed as a water use that does not exceed 2,500 gallons per day (Idaho Code 42-111).

You have several options:

Option 1: Do nothing. Without completing a claim, my guess would be that at the hearing on April 21, 2009, the SRBA court would not grant the motion to file late claim 29-4443.

Option 2: Withdraw your motion to file late claim 29-4443. The only reason you might want to do this is if you chose not to pursue this claim and wanted to request a refund for the \$25 filing fee you submitted with the motion. You might choose this option if for instance, you felt that the water use you intended to claim was that water use which was partially decreed under 29-4443A.

You would need to send a letter to the court requesting that the motion be withdrawn and requesting a refund. Please note that I do not know the courts policy on refunds so I am not guaranteeing they would issue a refund. But I suspect they would.

Option 3: Submit the enclosed claim to the SRBA court without any additional filing fees. Make sure to initial any changes you wish to make on the claim.

Option 4: Submit the enclosed claim to the SRBA court with the additional filing fee of \$105.00. Make sure to initial any changes you wish to make on the claim.

You would choose this option if you were intending to claim an industrial use where total water use exceeds 2,500 gallons per day or a domestic use where total use exceeds 13,000 gallons per day. See Idaho Code 42-111 enclosed. Filing fees are calculated below:

\$50 claim fee
\$50 late fee
\$30 variable fee (\$100 per cfs @ a total of 0.3 cfs)
Total = \$105.00 - \$25.00 (already paid) = **\$105.00**

You will also need to submit evidence of priority supporting that water was first put to beneficial use on or as close to the priority date claimed (August 17, 1949). I have enclosed a priority evidence pamphlet.

29-4444:

The copy of the claim submitted with the Motion to File Late Notice of Claim for 29-4444 was not signed.

I am enclosing a new copy of the claim for your signature. Please sign and return it to the SRBA court with a brief cover letter explaining why you are sending it to them.

29-4445:

It appears that when you were given a copy of this claim to sign, you did not get the full signature block. Since you need to sign and submit 29-4444 to the SRBA court anyway, I have enclosed a new copy of claim 29-4445 with the correct signature block for you to sign and submit to the SRBA court as well.

SNAKE RIVER BASIN ADJUDICATION
PO BOX 2707
TWIN FALLS ID 83303-2707

I understand that this is a lot of information so please feel free to contact me at 208-287-4916 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig L. Saxton". The signature is fluid and cursive, with the first name "Craig" being more prominent.

Craig L. Saxton
Water Right Supervisor
Adjudication bureau

Enclosure(s) Notice of Claim 29-4443
 Notice of Claim 29-4444
 Notice of Claim 29-4445
 Copy of Statute 42-111
 Copy of Partial Decree 29-4443A
 Evidence of Priority Pamphlet