



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 31, 2006

Janene Robinson Brown
C/O Holden, Kidwell, Hahn & Crapo
PO BOX 50130
Idaho Falls, ID 83405

Attn: Kent Foster

REF: Snake River Basin Adjudication (SRBA) claim 24-6

Subject: IRRIGATION OF GROUND IN NWSE OF SECTION 28

RESPONSE DATE: FEBRUARY 13, 2006

Dear Mr. Foster,

While reviewing the above referenced SRBA claim file and your correspondence with my staff on the land claimed in the NWSE of section 28 I thought I better follow up with a response. The decreed place of use includes two-quarter, SENW and NESW, sections that are not owned by your client. We have not received sufficient evidence to support that the decree was moved from the decreed ground to your clients ground in the NWSE of section 28, township 4 south, range 46 east of the Boise Meridian.

The additional ground was claimed to be irrigated in the NWSE of section 28 may fall under a couple different scenarios. One being if the land was irrigated prior to the mandatory permit statute for surface water under IDAHO CODE § 42-103 then your clients may be able to establish a beneficial use claim. Which would require that they submit evidence to support that the land was irrigated prior to May 19th 1971. Otherwise, it might fall under an enlargement, IDAHO CODE § 42-1426, to claim 24-6. In the case of the enlargement claim they would not receive any additional water to irrigate the ground in the NWSE but the right to irrigate it.

The filing fee for either scenario is \$50.00 and requires Department form 42-1409(2) a 1/88. There wouldn't be a per acre charge because the acres were already paid for under 24-6.

If we do not here from you by the response date above then only the acres found to be irrigated under the decreed place of use will recommended for the above referenced claim. If you have any additional questions please feel free to contact me at 547-3993.

Respectfully,

Cindy E. Bird
Adjudication Bureau

CC: Nick Spencer
Deputy Attorney General, IDWR