



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor

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Director

April 20, 2006

Robinson Family Ranch
c/o Dean Robinson
1856 South 180 West
Orem, UT 84058

REF: Snake River Basin Adjudication (SRBA)
Claim 24-2000B

Subject: Resuming irrigation.

RESPONSE DATE: May 5, 2006

Dear Mr. Robinson,

We are in the process of preparing a recommendation to the SRBA court this spring for this basin. In reviewing your file I have several questions from some inconsistencies I found while reviewing your claim to Tincup Creek for the above referenced claim number.

First lets start with your letter to Bryce Contour dated August 29, 2005 and go through each item.

1. Just because your grandfather was granted a license on April 22, 1904 doesn't mean the license still exists. Under the Idaho code it requires that a water right be put to beneficial use and used continuously from the date claimed. Has this water from Tincup Creek been used continuously for irrigation since 1904? The Fall 2005 photos that you submitted after Bryce had visited the property are inconsistent with the FSA crop reports. Your crop reports from FSA for 2003 thru 2005 all state that your farm is non-irrigated. That would be consistent with the photo because if you look closely at the photo you can see a lot of gofer hole in the field. Gofers usually don't take up residence in fields that are being worked or irrigated on a regular basis. If you were irrigating your ground why would you report to FSA that the ground is non-irrigated?

2. "Three colored photographs taken in June 1958 showing how the water was brought onto the ranch by an irrigation ditch and emptied into a series of sloughs producing sub-irrigation, as well as, provide water for domestic animals." My first question is on the color photo you submitted. The quality of the photos you sent in are inconsistent with a 1958 photo and there is nothing to indicate a date on the photo. Also, there is no

difference in the quality of color photos from your Fall 2005 and the 1958 photos. How do you explain that? Secondly, you stated that the series of sloughs produce sub-irrigation, as well as, provide water for domestic animals. Was sub-irrigation the only irrigation going on or was the primary concern to get water to the stock? Sub-irrigation is not considered irrigation. How long has the sub-irrigation practice from the sloughs exist?

3. The easement from Byron Haderlie appears to be describing an easement for the power company to run the power from his south property line to his north property line. The easement from L.H. Haderlie to the power company allows them to locate a guy wire and anchor on the north end of his property. This is all done in the E1/2NE of section 9. In 1967 your point of diversion was located on the Wolfley property that is approximately a mile from where this power line is being put in. When was the pump installed in the NENE of section 9 and what did it service? What size pump? Who manufactured the pump? Tincup Creek doesn't come in to your property in section 9. Do you have an easement across the Haderlie's property in section 9 for your pipe? Because that is the only way you're going to be able to get the water from Tincup Creek in section 9.

4. You filed a transfer in 1983 and the Department approved it in January of 1984 to change the point of diversion to the NWNW of section 10. If the easements pertain to the transfer why did you wait from 1967 to 1983 to make the change? Did you complete the approved transfer within a year of the approval? Have you moved the point of diversion at all? What kind and size of pump was installed?

5. You stated "This document show that the Water Right was adjudicated by District Court of the Fifth Judicial District of the State of Idaho, in the County of Twin Falls on August 23, 1989." If you look at the document that you sent you will see that it clear says "Notice of Claim to a Water Right". That only means that you have claimed use of the water for the purpose of irrigation. The August 23, 1989 date that you refer to is the date you filed your Notice of claim to a Water Right. If your claimed had been "adjudicated" then you would have received a partial decree from the court and I wouldn't have your file. It would be hard for the court to issue you a partial decree when they have not received our recommendation on this claim yet. If a partial decree is issued on this claim it won't be until later this year or maybe next year.

6. You also submitted as evidence a quote-dated 8/25/2005 from Rain for Rent out of Idaho Falls. Have you purchased this system or has it been installed yet? When is it going to be installed or is it going to be installed? A quote on system is not evidence of irrigation.

Furthermore, In Bryce's field examination with you he stated that you are in the process of resuming irrigation and that the place is not currently irrigated. When was the last time the property was irrigated? When did you resume irrigation? Please explain that to me in detail.

This office must receive your response by the above response date. If no response is received, then your claim maybe recommended as **disallowed**.

Respectively,

Cindy E. Bird
Adjudication Bureau