



State of Idaho

DEPARTMENT OF WATER RESOURCES

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Governor

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Director

February 27, 2009

WILLIAM C PHIPPS
1731 N CRANE RD
MIDVALE ID 83645

VERONA M SPREADBURY
1715 N CRANE RD
MIDVALE ID 83645

RE: Snake River Basin Adjudication (SRBA) recommendation
Possible objection to 67-15005 & 67-15006

Dear Mr. Phipps and Ms. Spreadbury,

I met with Charlie Phipps on 2-20-09 where we discussed the property to the East of N. Crane road more specifically described as T12N, R1W, S3, NWSE & SWSE. Charlie and I discussed two options.

Option 1 was to file an objection to the current recommendations for water rights identified by water right numbers 67-15005 (Phipps) and 67-15006 (Spreadbury). The objection would argue that the acreage to the east of N. Crane Road should have been included as irrigated ground under those water right recommendations.

Option 2 would be to petition the SRBA court to file two new late claims. This would be claiming that there is a water right applicable to that ground, but it isn't part of the 1884 water right described in the posted notice submitted by John Wheeler in 1884.

After doing some additional research, I would advise pursuing **Option 2** and filing a new claim. The reason is because with the available evidence, I do not see how I could support adding the additional acreage onto your current water rights 67-15005 and 67-15006.

The reason is because 67-15005 and 67-15006 are claimed based on the development of a water right by John Wheeler in 1884. The property to the East of the road was not owned by John Wheeler in 1884 and therefore could not have been part of the water right he described in his posted notice.

Research:

Using the BLM Land Patent Search application on the web, I discovered that Nancy Sharp was issued a patent for the property listed below on March 25, 1890:

12N, 1W, S3, SESW
 SWSW
 NWSE
 SWSE

Since John M Wheelers the Posted Notice did not describe the NWSE and SWSE of section 3, and the property was patented by Sharp instead of Wheelhouse, irrigation of this ground can not be added to 67-15005 and 15006. Rather if a water right is going to be pursued for this property, it will have to be through a new claim or some other means.

Option 1 Discussion:

Despite my findings, you can still go with Option 1 and file objections to 67-15005 and 67-15006. I told Charlie that I would start filling out the objection forms and send them to him so you can send them to the court wish. Per that discussion, I am enclosing two partially completed objection forms.

However, I do want to be clear that just because I am sending you objection forms, it does not mean I am advising you to file objections to 67-15005 and 67-15006. I am not advising you file objections.

The deadline for filing objections for 67-15005 and 67-15006 is **March 2, 2009**. Since the mailing is going to be late, I would suggest you call the SRBA court at (208) 736-3011 and let them know that your objection might be late.

Option 2 Discussion:

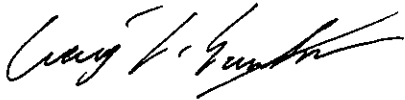
If you can show that the ground to the east of the road was irrigated prior to May 20, 1971, and has been irrigated, I would advise you go with **Option 2** and file two new late claims with the court. At the end of our meeting, my understanding was that Charlie was going to speak to some neighbors and see what he could find out about the irrigated history of that ground located to the east of the road.

I will be preparing two late claims and sending them to you for review in a separate mailing.

If you decide not to file objections to 67-15005 and 67-15006, you can just throw the paperwork I am enclosing with this letter away.

Please feel free to contact me with any questions at (208)-287-4916.

Sincerely,



Craig L. Saxton
Water Right Supervisor
Adjudication Bureau

Enclosure(s): Copy of John M Wheelhouse's Posted Notice
Partially completed objection form
Copy of Recommendation for 67-15005 and 67-15006