



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

March 11, 2009

GARY MADSEN
48 OUTFITTER LN
MAY ID 83253

RE: Objection to Snake River Basin Adjudication (SRBA) claim 73-4099
Request for Evidence of Priority

Dear Mr. Madsen,

I have been asked to review the claim file for 73-4099 and see what we can do to address the objection you filed to the disallowed recommendation for 73-4099. I see it has been 2 years since you filed your objection. It is my hope to work with you to gather what is needed to try to resolve your objection

From my review it looks like the agent recommending the claim at the time was missing some information. Specifically, she was missing evidence supporting the priority date claimed. Once evidence of priority is submitted, the department can work with you to set up a time where we can conduct a field exam and verify beneficial use of the water. My hope would be to conduct a field exam this summer.

Priority Date Discussion:

Your claim is based on beneficial use, rather than on a previous decree or license where elements of the water right have been previously determined. Because of this, in order to recommend your claim, IDWR needs to verify all elements of the claim including the priority date. You claimed a priority date of April 16, 1902 so you need to submit evidence supporting that the beneficial use of water commenced on, or as close to, 1902 as you can get.

On August 23, 2004, IDWR received a packet you sent in response to a letter requesting evidence of priority. Unfortunately, the information you submitted was not sufficient to support the claimed priority date (copy of packet enclosed). For your convenience I am enclosing a pamphlet that discusses priority date and what evidence that can be used to support your claimed priority date.

With that said, I see the original statutory claim filed by Dean Wheeler in 1984 (enclosed) states under Item 8:

*"This claim is based on county records to support my and my predecessors use.
Recorded in Book B of Water, Page 276. Pahsimeroi Precinct of Lemhi Co."*

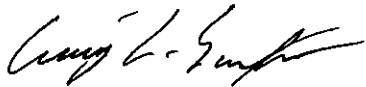
I would suggest locating the information recorded in **Book B of Water, Page 276**, if possible.

Often times, affidavits from people with first hand knowledge describing the historic water use on your property can be used to support historic use even if it you can't go clear back to 1902. Historic air photos obtained from the FSA showing air photos or tax records showing the ground assessed as irrigated land can also be used as evidence of priority as well.

IDWR anticipates that the SRBA court will schedule initial hearing for the basin 73 objections to be held sometime in the fall of 2009. Since it has been two years since you filed your objection, I am reluctant to ask you to rush to get back to me with this information. But the reality is, if it interests you to try to resolve this before initial hearings, the sooner you can get me that information, the better. Please mail any information supporting your claim to my attention.

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

Sincerely,



Craig L. Saxton
Water Right Supervisor
Adjudication Bureau

Enclosure(s): SRBA claim 73-4099
1984 Statutory claim 73-4099
Objection to 73-4099
Evidence of Priority information submitted to IDWR August 23, 2004
Evidence of Priority pamphlet