

March 14, 2009

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DEPARTMENT OF  
WATER RESOURCES

Donald V. Shaff, MPA

Adjudication Bureau Chief

Idaho Department of Water Resources

322 East Front Street

P. O. Box 83720

Boise, Idaho 83720-0098

Re: Snake River Basin Adjudication

Right 73-4080

Dear Mr. Shaff,

We received your letter of March 4 yesterday concerning our objection to Claim 73-4080 as submitted to the Court by IDWR. Your letter was forwarded, in that my wife and I are currently in Virginia until April 14. Unfortunately, our paper work for water claims is in Idaho. I will address the amended claim form and contact you when we return. I will have my records before me then.

Until that time, I will attempt to address with this letter several of the issues you raised. We own 63.4 deeded acres to which Claim 73-4080 and another claim apply. The irrigation ditch known as P-6 or Shoupe-Ellis ditch (Claim 73-4080) irrigates 58.2 acres, another irrigation ditch fed by springs (other claim) irrigates 3 acres (part of the dry area shown in the aerial photography from 1987), and 2.2 acres are dry waste land (the rest of the dry area shown in the aerial photography). I do not believe this can explain the difference in the place of use between IDWR's recommended 50.2 acres and our claim of 58.2 acres.

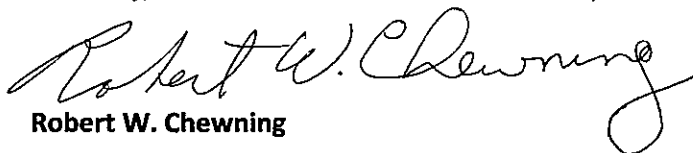
With regards to investigative information concerning the dry area above ditch P-6 and the idea that the area above the ditch was first irrigated in 1875 seemed implausible based on the 1987 areial photography, 3 acres of that "dry" land was being irrigated by a second ditch fed by springs and

growing a healthy crop of alfalfa in 1968 when we purchased that property from Jack Furey, a local rancher and attorney. He is still living and can verify this fact. Also, our attorney, who filed our first water claims on this property around 1986, was told by a Mr. Burstedt, a rancher who lived in the immediate vicinity before the turn of the century, that the ditches, P-6 and the second ditch, were in use before the turn of the century.

As to the amount of water claimed and recommended, we purchased the property being irrigated with P-6 and the second ditch in three pieces at different times. When our attorney filed our first claim, now 73-4080, around 1986 we owned 55 acres. P-6 was irrigating 50 of these acres, the second ditch was irrigating 3 acres, and two acres were dry ground. This 1986 claim carried over to the 1990 claim of 2.02 cfs for 73-4080 and 50 acres. We subsequently purchased an additional 8.4 acres being irrigated by ditch P-6. When Ms. Brown of the IDWR showed us what she intended to file with the Court for 73-4080, we filed with IDWR and error protest to the recommended 48 acres, 2.02 cfs and the priority date of 19-something. We claimed 58.2 acres, 2.34 cfs, and a priority date before 1886. The recommendation that went to the Court was 50.2 acres, 2.02 cfs, and a priority date of 1875. We had so much difficulty with Ms. Brown, we had already filed four on time objections to her recommendations to the Court for other claims, that we decided at that time not to pursue Claim 73-4080. Subsequently, at least two others and maybe more users of ditch P-6 have filed late objections to their recommended water usage because of loss from evaporation and seepage of 20 to 30 % given the distance P-6 travels to the end users and the soil composition. We are among the very end users of P-6 and the ditch travels over one and a half miles to us. In filing our late objection to cover this loss, it only seemed right to make a final attempt to correct the acreage to 58.2 and, using 2 miner inches per acer, the water usage to at least 2.34 cfs.

We greatly appreciate you taking the time to supply us with your information concerning this claim and offering to work with us to get the water right correct. I will definitely contact you as soon as we return to Idaho. I may be off a year or so in my dates and a small percentage in my numbers without my records. However, the overall picture is correct. I am disappointed that our objections have not been clearer in conveying our side of the issues.

Sincerely,



Robert W. Chewning

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