

## MEMORANDUM

**To:** Claim files 37-415 and 37-416

**From:** Cynthia Bridge Clark

**Date:** March 12, 2007

**Re:** Meeting Notes

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Today Dave Tuthill and I met with Attorney Scott Campbell and paralegal Tiffany Hoodak regarding the Snake River Basin Adjudication (SRBA) recommendations for claims 37-415 and 37-416. The claims pertain to the Sun Valley Golf course owned by Sinclair Oil Company. We discussed several issues raised on a Notice of Error Reply (NOE) submitted by Scott on behalf of the claimants. See the attached copy of the NOE for descriptions of the issues raised under the headings listed below.

### Place of Use

On the NOE, Scott identified 136.1 acres claimed as part of the place of use that were not included in the recommended permissible place of use. All of these acres are located in the hills west of the golf course outside the existing delivery system and outside the decreed place of use. Scott brought information to the meeting to try to document irrigation of these lands and to justify an accomplished transfer. He provided photographs taken in 1989 and a video taped in 1991 of water line and sprinklers temporarily placed to pump water from a lake at the gunman's club west into the hills adjacent to the golf course (see acres identified on the NOE). Based on the photos and the video, water was sprinkled on the existing natural vegetation. There was no indication that the land had ever been cleared or prepared for irrigation, or that it had been sprinkled on a regular basis.

Scott explained that there had been discussion of expansion of the golf course and the owners were attempting to put the water to beneficial use at least once within a five-year period to demonstrate an accomplished transfer. He also mentioned that the owners proceeded with seeding the ground this year under the assumption that water rights would include the new area. Scott also offered a study conducted by Brockway Engineering of the water requirements for the golf course delivery system. Scott agreed to provide a copy of the study to the department to address some of the other questions on the NOE.

There is no indication that irrigation took place in this area in 1987 or 2004 satellite imagery. The new ground was not recognized in the place of use authorized under the original decree or a transfer on right 37-415 approved in 1978. A field exam was conducted in December of 2006 in which the grounds managers guided the examiner through the golf course. They identified the delivery system for the examiner and delineated the system and irrigated area on a map provided by the department. There

was no mention of irrigation of this new area or any indication and a water delivery system was in place to access this area.

Dave Tuthill stated that based on the information provided, the department would not consider inclusion of the acres in the place of use. Scott and Dave discussed other options for the claimant to provide water to the new ground including a temporary transfer if a drought declaration is approved. Scott indicated that the claimant is prepared to dry up acres within the authorized place of use to accommodate the new ground.

#### Point of Diversion

The NOE indicates an additional point of diversion should be recommended as claimed. Three points of diversion from Trail Creek were described in the claim and in Transfer no. 2233 on water right 37-415 (see attached copy of map from claim file, copy of approved transfer, and POD comparison table). During the field exam, only two points of diversion were identified from Trail Creek. I informed Scott and Tiffany that additional information should be submitted to document existence of the third point of diversion.

#### Purpose & Period of Use

The quantity, purpose and period of use were claimed and recommended as described below.

##### Water right 37-415:

| <u>Purpose of Use</u> | <u>Season of Use</u> |                       | <u>Diversion Rate</u> |                       |
|-----------------------|----------------------|-----------------------|-----------------------|-----------------------|
|                       | <u>Claim</u>         | <u>Recommendation</u> | <u>Claim</u>          | <u>Recommendation</u> |
| Irrigation            | 4/1 to 11/1          | 4/15 to 10/31         | 25.0 cfs              | 7.4 cfs               |
| Wildlife              | 3/1 to 12/15         | 4/15 to 10/31         | 25.0 cfs              | 17.6 cfs              |
| Aesthetic             | 3/1 to 12/15         | 4/15 to 10/31         | 25.0 cfs              | 7.4 cfs               |

##### Water right 37-416:

| <u>Purpose of Use</u> | <u>Season of Use</u> |                       | <u>Diversion Rate</u> |                       |
|-----------------------|----------------------|-----------------------|-----------------------|-----------------------|
|                       | <u>Claim</u>         | <u>Recommendation</u> | <u>Claim</u>          | <u>Recommendation</u> |
| Irrigation            | 4/1 to 11/1          | 4/15 to 10/31         | 6.5 cfs               | 1.9 cfs               |
| Wildlife              | 3/1 to 12/15         | 4/15 to 10/31         | 6.5 cfs               | 1.9 cfs               |
| Aesthetic             | 3/1 to 12/15         | 4/15 to 10/31         | 6.5 cfs               | 4.6 cfs               |

The NOE indicates that the recommended diversion rates should be changed back to the amounts claimed. The rates were reduced to reflect the change in use from irrigation to wildlife and aesthetic use (the basis for the reduction is documented in a review memorandum dated November 22, 2006). It is understood that wildlife and aesthetic use take place in the canals and ponds that also act as the delivery system for the irrigation water. There were concerns that allowing diversion of the full amount (25.0 cfs + 6.5 cfs) from Trail Creek throughout the authorized season of use would be an enlargement and could cause injury if water was not historically diverted to the full extent when irrigation is not taking place.

Scott Campbell pointed out that the diversion of the full rate is required for operation of the delivery system of canals, ditches and ponds. He offered to provide a copy of the

report prepared by Brockway Engineering evaluating the water use and diversion system to substantiate the beneficial use of the water. We agreed to consider this information.

The change in the claimed season of use was also noted in the NOE, but was not resolved in this meeting. The standard season of use was applied to the recommendation. Scott Campbell had not seen the recommendation for claims 37-22105 and 37-22106 which authorize the same diversion rate as claims 37-415 and 37-416 for wildlife and aesthetic use from November 1 through December 15. Scott and Tiffany intended research the issue further.

#### Quantity

We did not discuss the NOE comment regarding the measuring condition remark. The condition was included on Transfer 2233 and was carried over in the recommendation.

POD COMPARISON

| <u>Claim</u>          |               | <u>Water Right</u>         |               | <u>Field Exam</u>                          |               |
|-----------------------|---------------|----------------------------|---------------|--------------------------------------------|---------------|
| Name                  | Legal Desc.   | Name                       | Legal Desc.   | Name                                       | Legal Desc.   |
| Lewis #1 Headgate     | 05N18E32 NESE | Lewis Headgate #1 N. Ditch | 05N18E32 SESE | POD #1 Boundary Diversion                  | 05N18E32 NESE |
| Ketchum #2 Headgate   | 04N18E5 NENW  | Golf Course Pumps          | 04N18E5 NESW  | POD #2                                     | 04N18E5 NENW  |
| Trail Ck Pump Station | 04N18E7 SENE  | Grounds Pumps              | 04N18E7 NWSE  | * No other POD directly off of Trail Creek |               |