

Saxton, Craig

From: muley8@juno.com
Sent: Wednesday, January 26, 2011 9:57 AM
To: Saxton, Craig
Subject: Re: Motion to File late Notice of Claim - Hull

Craig

I got your e mail and we will try option 3. Thank you for all of your help. I really appreciate it.

----- Original Message -----

From: "Saxton, Craig" <Craig.Saxton@idwr.idaho.gov>
To: <muley8@juno.com>
Subject: Motion to File late Notice of Claim - Hull
Date: Wed, 26 Jan 2011 09:10:37 -0700

Dear Mr Hull,

I thought I would summarize what we spoke about on the phone. □ In addition, you can see that I have attached some information. □ You should have 6 documents.

This issue is that it is understood that decreed water right 75-10130 is applicable to your property located in the NESW of section 15, T25N, R21E, □ yet the place of use (POU) description on 75-10130 describes the POU as being in the NESE of section 15, T25N, R21E. □ To further complicate the matter, explanatory remarks on the proof report for water right 75-10130 (attached) indicate that the POU is on parcel no: RP25N21E150018A which is located in the SENE of section 15, T25N, R21E.

We discussed a couple of options:

- 1) Petition the Snake River Basin Adjudication court to set aside partial decree 75-10130. □ The way to do this is to fill out an objection form (attached) and submit it to the SRBA court along with a coverletter explaining that you are the owner of water right 75-10130 and the place of use description was decreed in error. □ You wish to open up the partial decree so the claim can be amended to claim the correct place of use, and then the claim could be re-evaluated by IDWR.

This process would not cost anything, and just like the other options, would require an initial hearing with a SRBA Special Master (Judge) where you would need to make a case as to why you feel that 75-10130 was decreed in error.

Your hurdles with this is that the partial decree was issued 11 years ago and that we have three different places of use descriptions. □ That said, I think if you did go this direction, I actually think you probably wouldn't have a problem getting the partial decree set aside, it just might take some □ explaining.

- 2) You could do nothing. □ As long as your use from the well doesn't exceed the parameters defined in Idaho Code 42-111, you are not required to file on the water right. □ In short, if your domestic use is from a well, you don't exceed □ acre of irrigation with the well water and don't exceed 13,000 gallons per day, you are probably exempt from needing a water right. □ Below is a link to 42-111.

<http://www.legislature.idaho.gov/idstat/Title42/T42CH1SECT42-111.htm>

- 3) File a new late claim with the SRBA court. □ In this situation you would submit a "Motion to File a Late Notice of Claim" (attached) with the SRBA court. □ Along with the motion you need to submit a claim (draft claim attached) and a \$25 filing fee. □ □ Before submitting the motion, you will need to contact the SRBA court (instructions are on the motion) and get assigned a hearing date where you will speak with Special Master and explain why you are filing late. □ □ This is fairly informal and the court almost always grants them.

In our phone conversation, we spoke about going with option three although I think any of them are fine. □ I have attached a draft notice of claim. □ The information, specifically the stockwater use and priority date, was copied from right 75-10130. □ **Please make necessary changes to the claim so it accurately describes your water use.** □ Note that the priority date is the first date that you put the water to beneficial use for the purposes claimed. □ So if you claim a 1989 priority date, you are saying that the well was being used for domestic purposes since 1989.

I am also attaching a map. □ The point of diversion (well location) and the place of use shown on the map is just general placement. □ Please mark on the map the actual location of the well and identify the home that the water is used at for domestic purposes. □ Please submit that map with the claim and the Motion to File Late Notice of Claim to the SRBA court.

I am sending you a lot of information. □ If you have a chance, will you send me a quick e-mail reply so I know you received this e-mail.

If you have questions, please feel free to contact me at 208.287.4916 or by e-mail at craig.saxton@idwr.idaho.gov.

Thanks,

Craig L. Saxton

Water Rights Supervisor

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