



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

September 12, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

RACINE OLSON NYE BUDGE & BAILEY CHTD
ATTN: CANDICE MCHUGH
101 S CAPITAL BLVD SUITE 208
BOISE ID 83702

RE: Snake River Basin Adjudication (SRBA) claim 81-2006: Jackson/Brotnov

Dear Ms. McHugh,

On August 15, 2011, I spoke with Keith Franklin and Greg Taylor, out of the Northern Region office of IDWR, about SRBA claim 81-2006 and your client's use of water from Little Smith Creek. Your clients had contacted them in regards to the status of the review for claim 81-2006.

81-2006 claims: Irrigation for 10 acres
Industrial for a sawmill
Domestic use for 1 home
Fire Protection

After speaking with Mr. Franklin and Mr. Taylor, and reviewing the available documentation, I still do not have enough information to recommend 81-2006 as claimed. I do not have any evidence of industrial use occurring in a sawmill as originally licensed, nor has there been beneficial use of water for industrial use for long enough that the industrial use authorized under license 81-2006 has most likely been forfeited due to non-use. I do not have information supporting the irrigation or domestic use claimed either.

There must be a diversion system in place from Little Smith Creek as it is also my understanding that there are currently 4 ponds that are supplied with water from Little Smith Creek. Mr. Franklin informs me that he has been in contact with your client about filing an application for permit for the diversion and storage in relation to the ponds.

It appears that the intent of claim 81-2006 might possibly be to provide water for the 4 ponds that currently do not have a water right associated with them. However, 81-2006 does not claim storage of any kind. If the intent is to claim an accomplished change in purpose of use, not only does that use need to be claimed, but in order to support that change, I would need evidence that the change occurred prior to November 19, 1987.

In order for me to make a favorable recommendation to the SRBA court, here are at least some of the questions that need to be answered:

Irrigation:

- How many acres are irrigated from Little Smith Creek under 81-2006?
- Where are the irrigated acres?
- Do they overlap with irrigation from 81-4041?
- How is water delivered to the irrigated ground? What is the delivery system (sprinklers, flood irrigation, irrigation from storage)?

Industrial:

- Is Little Smith Creek Water being used for industrial purposes (sawmill, other)?
- To what extent is it being used?
- If the nature of use changed, when did the use for the sawmill end and the new use commence?

Domestic:

- Is Little Smith Creek water being used for domestic uses?
- Internal and/or external use?
- Is the claimed domestic use the same use authorized under right 81-7089?

Fire Protection:

- Where is the point of diversion?
- Is the point of diversion used to divert any other rights?
- What is the capacity of the point of diversion?

With the current information available, I have no option but to limit my recommendation to Fire Protection. If your client disagrees with my review, please provide documentation supporting the water uses claimed by **September 30, 2011**. If you have questions, please feel free to contact me at 208.287.4916.

Respectfully,



Craig L. Saxton
Water Rights Supervisor
craig.saxton@idwr.idaho.gov
208.287.4916