

Idaho Dept. of Water Resources
1301 N. Orchard Boise, ID
January 16, 2006

To: 74-15658
From: Roxanne Brown
Subject: **Enlargement claim**

This is a claim for the enlargement of water right 74-56. The right was previously decreed in the Lemhi adjudication.

The claimed priority date for the enlargement is 1976. An affidavit submitted with the claim supports some additional irrigation in 1976.

If the irrigation occurred prior to 1971, it could have been claimed in the Lemhi adjudication as a valid beneficial use claim. Irrigation of the land in question was in violation of the mandatory permit statute in 1976. The Lemhi decree was final in 1986.

If the irrigation occurred after the decree was final in 1986, but before the commencement of the SRBA on November 19, 1987, it could be recommended pursuant to §42-1426, Idaho Code. The aerial photography available to IDWR is inconclusive as to irrigation under this claim.

The enlargement claim 74-15658 will not be recommended for decree in the SRBA.

01/16/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 74-15658
NAME AND ADDRESS: F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included

where

a right was determined not to exist in a prior adjudication.