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SUBCASE NO. 34-07232

In Re SRBA
Twin Falls County Civil Case No. 39576

34-7232

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director

May 1, 1996

DESCRIPTIVE SUMMARY

The Director of the Idaho Department of Water Resources (IDWR) consents to appointment as an expert witness in the above-referenced subcase pursuant to I.R.E. 706. This report is submitted pursuant to I.R.E. 706 and Order Requiring IDWR to Submit a Report Pursuant to I.R.E. 703, I.R.E. 705 and I.R.E. 706 dated February 20, 1996.

DISCUSSION

Water right no. 34-07232 is based on a license issued by IDWR to the U.S. Bureau of Land Management (BLM). This license was issued pursuant to the statutory licensing procedure. On July 30, 1979, the BLM submitted an Application for Permit. The application identified a quantity of .05 cfs and a year-round season of use for livestock and wildlife. The application was published. Following publication, there were no protests lodged against the application. On November 5, 1979, IDWR approved the application on the condition that proof of beneficial use be submitted to IDWR before November 1, 1984. BLM submitted its proof of beneficial use on June 10, 1983. IDWR subsequently issued a Field Report confirming application of water to beneficial use. The report identified a quantity of .05 cfs and a year-round season of use. On August 27, 1987, IDWR issued a license to BLM confirming its right to use .05 cfs of water with a year-round season of use for stockwater and wildlife with a July 30, 1979, priority date.

In the Snake River Basin Adjudication (SRBA), the BLM filed

a Notice of Claim for this right. IDWR subsequently conducted an investigation into the nature and extent of the claimed water right pursuant to Idaho Code § 42-1410.

IDWR utilizes a tiered method of investigating water right claims. Under this method, a claimed water right that has been previously confirmed by a license is investigated in three stages.

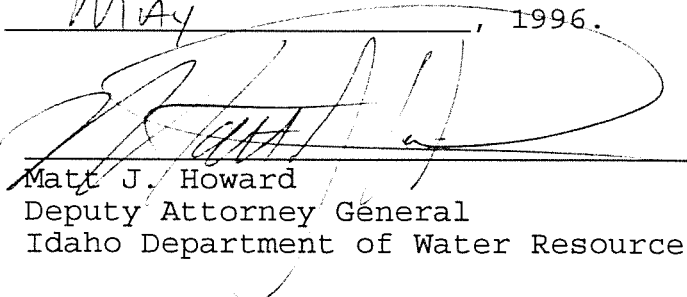
The first stage of investigation consists of comparing the claim with the information contained in the licensing file and other information available to IDWR, including remote sensing, Landsat Imagery of irrigated acres, and aerial photography, as applicable. If the claim is different from IDWR's information, IDWR will investigate further to resolve the discrepancy. This further investigation may consist of a field examination, submission of additional evidence from the claimant, or both. If no discrepancies exist, IDWR recommends the water right based on the information contained in the licensing file. In the present case, IDWR found no discrepancies between the claim and the licensing file and the other information specified above. Therefore, IDWR recommended the water right as claimed by the BLM and supported by the license.

The second stage of investigation occurs during the notice of error process. If the notice of error process identifies potential errors in the water right as described in the director's report, IDWR will investigate the claimed error. In this case, no notice of error was filed against this water right.

The objection process triggers the final stage of investigation. If the objection identifies factual issues that merit additional review, IDWR will further investigate the water right and conduct a field examination, if necessary. In the present case, the objection raised no specific factual issues of such a nature that they could be resolved through further investigation. Therefore, IDWR has not conducted any further investigation of this water right.

The Director does not have any expert opinions at this time regarding the elements of the water right or the issues raised by the parties in this subcase. As noted above, IDWR recommended this water right based solely on the information contained in the licensing file; a field examination was not conducted. The parties may wish to review the licensing file. It is available for copying or inspection at IDWR's State Office, 1301 N. Orchard, Boise, Idaho.

DATED this 1 day of May, 1996.



Matt J. Howard
Deputy Attorney General
Idaho Department of Water Resources

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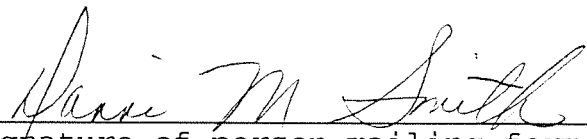
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State of Idaho

DEPARTMENT OF WATER RESOURCES

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"SUBCASE NO. 34-07232; REPORT TO THE SRBA DISTRICT COURT"

PREPARED BY KARL J. DREHER, DIRECTOR; DATED MAY 1, 1996

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