



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

July 16, 2013

ED COOK
MARY COOK
BOX 1125
NORTH FORK ID 83466

RE: Water Right Permit 75-07410

Dear Mr. and Ms. Cook,

The Department of Water Resources is reviewing the permit referenced above prior to issuing a water right license. In my review, I ran across a unique situation that is preventing the Department from moving forward to issue a final license for 75-7410. It seems that the development of your water right has been traveling on two separate paths, 1) the water right permitting process, and 2) review in the Snake River Basin Adjudication (SRBA).

Permitting process timeline:

On September 24, 1984, the Department issued permit 75-7410 in your name for domestic and mining purposes. The permit contained a condition that proof of construction of works and application of water to beneficial use (proof of beneficial use), be submitted to the Department on or before October 1, 1985.

Instead of submitting proof of beneficial use, on October 1, 1985, you submitted a request for extension of time to complete your project. The request was granted and the proof due date in connection with the permit was extended to October 1, 1986.

On June 20, 1986, you submitted proof of beneficial use in connection with permit 75-7410. On your proof statement you indicated that the water was used for domestic purposes for one home and for placer mining. After submitting proof the next steps was for the Department to conduct a review of the development under 75-7410 and ultimately issue a license.

SRBA timeline:

While you were waiting for the Department to conduct an examination and issue a license, the Snake River Basin Adjudication (SRBA) commenced on November 19, 1987. You filed SRBA claim 75-7410 with almost the same elements of the permit. You claimed only domestic use. Mining was not claimed as a valid use of 75-7410 at this time.

The claim was recommended and submitted to the court. What generally happens in this case, is the court decrees (finalizes) the recommendation based on a permit and then adds language to the decree that essentially says that the permit still needs to be reviewed and licensed, and when that happens, the license will supersede the decree. However, with 75-7410, the court issued a partial decree on September 11,

2000, without any language saying that it would be superseded by a license when issued. Partial decree 75-7410 authorizes diversion of water for domestic use only...not for mining.

The result is two conflicting records for 75-7410. On one hand, there is an active permit for domestic and mining purposes that still needs to be licensed. On the other hand is a decree from the SRBA court that says 75-7410 is for domestic use only.

We need to bring water right record 75-7410 to some sort of conclusion. There are a couple of options that depend on if the mining use was developed and is a valid use of water under 75-7410?

1. If you feel that the finalized water right for 75-7410 should include both domestic and mining use, please contact me so we can conduct a field examination.
2. If the water is not used for mining, and is only used for domestic use as you identified on the claim submitted in 1990, then you could relinquish the mining portion of permit 75-7410. If there wasn't that discrepancy, then I think we could move forward issuing a license that does not conflict with the decree issued by the court in 2000. I am enclosing a relinquishment form for your convenience.

If I don't hear from you within 30 days, I will move forward to try to bring this situation to a close by either voiding the permit or issuing a license that reflects the elements of the partial decree. This is a complex situation and I encourage you to contact me to discuss any questions you have at (208) 287-4916.

Respectfully submitted,



Craig L. Saxton
Water Rights Supervisor
Water Right Permits Section

Enclosure(s): Copy of Permit 75-7410
 Request for Extension of Time
 Proof of Beneficial use for 75-7410
 Proof Report for SRBA claim 75-7410
 Copy of Partial Decree 75-7410
 Relinquishment form

Cc: ABK INVESTMENTS LLC
 217 MARSHSIDE DR
 ST AUGUSTINE FL 32080