

From: Roberts, Christine
Sent: Thursday, August 11, 2005 2:19 PM
To: Roberts, Christine
Subject: Rich-let-080805

August 10, 2005

Dr Lon J Rich
117 Starcrest
Irvine, CA 92603

Re: Your Correspondence of July 5, 2005 Regarding Water Right 21-11984

Dear Mr. Rich,

I have reviewed the above referenced letter received by the Idaho Department of Water Resources on July 11, 2005. Your letter alleges that a water user located upstream of you on a ditch has dammed the ditch and will not let water pass to you. On August 8, 2005, I discussed this matter with you directly via phone conference. You explained to me that the channel being dammed by the upstream user is actually the natural channel of Timber Creek at the point in which the creek splits into two channels. The user was diverting all the flow of Timber Creek to the east channel. This action prevented any water going down the west channel. I confirmed with you from inspection of a topographic map that the channel did appear to naturally split above the area in which your livestock drink, which is along the west channel.

The water right that you have referenced is a water right that was decreed by the Snake River Basin Adjudication District Court on December 30, 1999. A copy of the decreed right is attached. The water right authorizes instream livestock watering on Timber Creek at a rate of 0.02 cubic feet per second (one miners inch), and bears a priority date of June 28, 1934. The location of the west channel appears to match the reach of Timber Creek described as the point of diversion on right 21-11894.

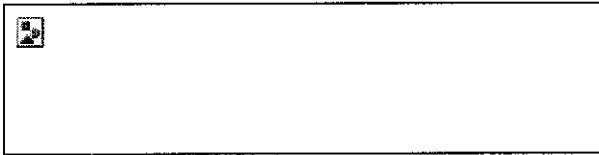
I have looked at existing water rights and Snake River Basin Adjudication (SRBA) claims for Timber Creek. The Department currently is in the middle of investigating water rights and claims in that area as part of the ongoing SRBA process. Unfortunately, our recommendations are not complete or comprehensive at this time. Your right appears to be the only right from Timber Creek that has so far been decreed in the SRBA. I have asked adjudication staff at our regional office to address some water right questions on the creek related to your complaint. Most of the other claims or existing rights on the creek are senior in priority to your right, with dates going back to June 1, 1887. At this time, a 1934 priority date in the Upper Snake River basin is not deliverable while 1887 rights are deliverable. However, based on my review of the SRBA claims and partial recommendations for Timber creek rights, I believe there may be some legitimate questions about the extent of use under the other Timber Creek rights, and whether the diversion dam cited in your letter is diverting an appropriate amount of water.

It is difficult at this time to resolve this matter without further understanding and resolution of the water rights in the SRBA. Water District 01 staff may need to make several visits to the creek. I will continue to work with our regional adjudication staff and Water District 01 with respect to your concerns. I

anticipate that I may have more information regarding the rights and diversions on the creek within the next month. If you do not hear from me within this time frame, please feel free to contact me directly at 208-287-4959.

Respectfully,

Tim Luke
Water Distribution



Cc: Roger Warner, IDWR Eastern Region
Ernie Carlsen, IDWR Eastern Region
Ryan Madsen, Water District 01

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