



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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Department of Water Resources

Southern Region Office

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GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

RECEIVED

OCT 03 1994

Department of Water Resources  
Eastern District Office

September 29, 1994

Jim Peterson  
Watermaster, Water District 37-0  
Box 67  
Carey, ID 83320

Re: Duplicate Snake River Basin Adjudication (SRBA) Claims on IDWR  
Water Right Identification No. 37-1048

Dear Jim:

Thank you for sending me a copy of the old Muldoon Creek water rights abstract which provides a footnote concerning possible duplication of water rights.

The abstract indicates that right 37-1007 decreed to Richard Scoble and right 37-0099 decreed to James N. Brown are really the same right. Both rights in the abstract have the same priority dates and rates of diversion. In addition, some of the place of use described in both abstracts are the same.

I have reviewed the Woodworth vs. Anthony decree of 1903 and find that there is a water right decreed to a Richard Scoble for 110 inches, with a priority date of 4/1/1884. For administrative purposes, this right was originally numbered by the Department as right no. 37-1007. The Department's copy of the decree includes a notation next to this right explaining that right 37-1007 had been changed to right 37-0099, which is found in the Frost Decree of 1909. This latter right was decreed to a James N. Brown for the same priority date and rate of diversion given to right 37-1007. The Department's computer records of right 37-1007 contains further remarks stating that right 37-1007 in the Woodworth Decree had been superseded by right 37-0099 in the Frost Decree.

While this information helps to clarify the status of rights 37-1007 and 37-0099, it is unrelated to right 37-1048 which was the source of some confusion during my recent meeting with you and Gary McCowan. You will recall that both you and Grant Ellsworth filed claims in the Snake River Basin Adjudication on right 37-1048. Since you both claimed the full decreed rate of diversion, the right is considered to be over claimed.

Since the information you sent me will not help clarify questions regarding the proper ownership of right 37-1048, I proceeded to review past water district records. In particular, I inspected records between 1971 and 1988, and looked at several years during the 1930's and several years after the district was first created in the 1920's. These records did not provide clear evidence

concerning ownership of right 37-1048. Watermaster daily log books, annual reports and proposed budget reports for the years 1976 and 1977 show use and ownership of right 37-1048 under Grant Ellsworth. In all other years between 1971 and 1988 (except 1985 and 1986 where records are missing or not submitted), no references at all are made to right 37-1048. The documents, including daily log books, watermaster reports and proposed budgets, do not show right 37-1048 as being used or owned by either Ellsworth or Peterson, or any one else within the water district. Records inspected from years prior to 1971 do not provide clear references to specific priority rights.

My instructions concerning delivery of right 37-1048 remains unchanged from my correspondence of September 13. That is, the right should not be delivered to anyone until such time as the ownership question is resolved and SRBA claims amended accordingly. I suggest that prior to the ensuing irrigation season that both parties submit documentation showing how each party obtained ownership of all or portions of right 37-1048.

Please contact me directly at 327-7864 if you have questions or if I can be of further assistance.

Sincerely,



Tim Luke  
Water Allocations

cc: Grant Ellsworth  
Gary McCowan  
Jim Stanton, Eastern Region

"A" - Woodworth et al vs. Anthony et al & amendments  
 "B" - Frost et al vs. Alturas Water Co.  
 "C" - Watkins vs. Swendsen 5-4-25  
 "D" - Feltie vs. Lewis "F" Hines vs. Watkins  
 "E" - Laidlaw vs. Spofford "G" - Peterson vs. Kulp

**DATE OF DECREE**

RECORDED  
IN BOOK NO.

**RECEIVED**  
**SEP 28 1994**

Department of Water Resources  
FILE NO. \_\_\_\_\_

First, third and fourth rights above show conflict in land description	
First and third rights are probably duplicates and only one right is valid	