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Department of Water Resources

July 21, 2004

Edwin C. Thomas
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IDWR
1301 N. Orchard
Boise, Idaho 83706
Attn: Ms. Roxanne Brown

Re: Water Right Number 73-187B (Adjudication Claim Report 73-187B)

Dear Ms. Brown:

In line with our recent telephone conversation concerning the above, please consider the following information and materials as they relate to the above.

First, please be advised that my wife, Linda M Thomas, and I own Triple T Summit Ranch and all rights appurtenant thereto, including, among others, water right number 73-187B.

Second, in the late 1990s, we and our then partner, Robert Hadley, contacted Mr. Jack Swauger who we understood to be the last surviving member of the family who owned the Summit Ranch and maintained for many years the Big Gulch diversion ditch that is the subject of water right number 73-187B. Among other things, we were trying to gain from Mr. Swauger a better understanding of the substance of the agreement(s) referenced under the "Remarks" section of Adjudication Claim Report 73-187B. In response to our inquiry, Mr. Swauger was kind enough to provide us with his affidavit dated May 25, 1999 and a follow-up letter dated June 9, 1999 (copies enclosed). As you can see, the letter outlines his understanding of the substance of a half-century old agreement concerning allocation of Big Gulch Creek water flow. This document appears to shed some light on the language contained in the "Remarks" section of Water Right Number 73-187B. The affidavit contributes additional background information. I commend them both to you for your consideration.

Third, please also find copy of letter dated May 1, 1965 from one Louis L. Gassi (?), apparently the then Water Master, to B.M. Hiller, the attorney for our predecessors in interest, Lynn and Marcine Bingham, describing the substance of transfer of Water Right No. 814.

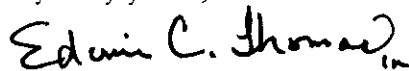
Ms Brown
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Fourth, also find letter dated March 31, 1965 from Ralph W. Thomas, State Reclamation Engineer for the Idaho Department of Reclamation, describing the effect of, as he understood it, the 1910 decree as modified by Transfer No. 814.

Some questions exist concerning the way the transfer works in certain water flow situations. I look forward to working with your office in clarifying this less than clear situation.

Please let me know when you will be conducting on-site inspections relating to the claim at issue. I would appreciate the opportunity to meet with you in that context.

Very truly yours,

A handwritten signature in black ink that reads "Edwin C. Thomas". The signature is written in a cursive style with a small "in" at the end.

Edwin C. Thomas

ECT:rr

Enclosures

AFFIDAVIT

25 May 1999

To Whom It May Concern:

This affidavit hereby acknowledges that I, Jack Swauger, have first hand knowledge of the irrigation practices and sources of water used on the ranch (known as Summit Ranch) situated at the summit between the Little Lost River Valley and the Pahsimeroi River Valley, in Custer County.

My Family *Q.S.* *→ (when it obtained & homesteaded in the 1920s)*
I owned this ranch from 1920s to 10/1/1951. During this period we used all of the waters of all the springs on the upper part of the ranch for irrigation and stock water and any runoff for storage in the reservoir. The reservoir was used for supplemental irrigation and stock water on the lower portion of the ranch later in the year. In addition, we had also developed and maintained a diversion and ditch from Big Gulch Creek on the Pahsimeroi side. This water was also used for irrigation, storage, and stock water on both parts of the ranch. Further, there are several large springs situated within and in close proximity to the west end of the lower portion of the ranch. All of the waters of these springs were used for irrigation and stock water within the lower ranch boundary.

Respectfully submitted,

Jack Swauger
Jack Swauger
1730 W. Jagged Rock Rd.
Tucson, AZ 85737
Ph: (520) 544-0958

NOTARY SEAL

State of ARIZONA

S.S.

County of PIMA

On this 9 day of JUNE, in the year of 1999, before me Lore Johnson, personally appeared Jack Swauger, proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same.

S
E
A
L

Lore Johnson
Notary Public
My Commission Expires on Aug. 29, 1999

6/9/99

Bob. I don't know for sure but do not believe the big gulch water was ever decreed. When my Father & uncle separated in sometime around 1943 or 1944 the water was divided and a agreement should be on record in Challis Idaho on record. as I recall it was to be divided equal until the flow was 150 inches or ~~less~~ less at that time the Summit Ranch was to get it all.

In the early days before it was customary to follow boundary & section lines Fences were put up by what was called (Leaps & Bounds) which is the way the Summit & Lower ranch were fenced in case they ask about property over

lines not being on section lines,
I can't remember my Father
ever stating anything about
buying the Summit or Lower
Ranch but him & my uncles
and a man named (Fred Roberger)
homesteaded the property. My
Father fought Freds homestead
some time around 1943 or 1944.

I hope this information
will be of interest to you.

Respectfully
Jack Swauger

S

Mr. Jack H. Swauger
1730 W Jagged Rock Rd
Tucson, AZ 85737-2309

May Idaho

May 1 - 1965

R M. Miller

Dear Sir

I will give you what information
I have on the Summit Ranch.

If Mr. Hife can not get enough
water from Hill Creek and Grange Springs
to fill his 12.5 inch right of the balance
should be obtained from Big Luteh Creek.

Any water left after Mr. Hansen's 100 inch
right is filled should then be divided
 $\frac{5}{8}$ to Mr. Hife and $\frac{3}{8}$ to Mr. Hansen

If the total flow of Big Luteh Creek
Grange Springs and Hill Creek will not fill both
rights, then the water would be divided on
the $\frac{5}{8}$ to $\frac{3}{8}$ ratio, with Mr. Hife getting what
water is available from Hill Creek and Grange Springs

and the balance of his $\frac{5}{8}$ from Big Luteh Creek.
Yours truly, Louis L. Gosar - Water Master.

ROBERT E. SMYTHE
Governor



CARL E. TAPPAN
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

March 31, 1965

Re: Summit Ranch

St. Clair, St. Clair & Miller
Attorneys at Law
P. O. Box 29, Idaho Falls, Ida.

Attn: M. B. Miller

Dear Mr. Miller:

In answer to your letter of March 29th in regard to water rights on Summit Ranch.

The Little Lost Decree awarded Swauger Land & Livestock Company 50 inches from springs on property, priority May 1, 1914, for irrigation of $\frac{1}{2}$ Sec. 9, T. 11 N., R. 25 E. Also awarded John H. Swauger and Fred Koblenzar 1208 acre feet storage in Summit or Pass Creek, priority January 28, 1921, for irrigation of same land.

A decree on the Pahsimaroi River awarded 225 inches from Grave Springs, Hill Creek and Timber Gulch or Big Gulch Creek to C. B. Graves. By Transfer of Water Right No. 814, O. H. Swauger transferred 100 inches or 100/225 of amount available to Lots 3, 4 and 5, & Fr. SE $\frac{1}{4}$ Sec. 6, T. 11 N., R. 25 E. and Lot 1, Sec. 1, T. 11 N., R. 24 $\frac{1}{2}$ E.

The above described land includes land not shown in the description you submitted, except possibly the Forest Homestead Entries 257, 261 and 262 covers the land. We would have no way to determine the amount of water for each of the subdivisions shown.

I find no other recorded water rights.

Very truly yours,

Ralph W. Thomas

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RR:ew