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Department of Water Resources
Eastern Region

5 September 2004

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District office
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

Attn: Ernest Carlsen
for: Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

Pursuant to your letter of 24 June 2004, I am enclosing a copy of my letter of 19 July 2004 written to Ray W. Rigby of Rexburg, Idaho which is self explanatory.

Mr. Rigby has acknowledged receiving my letter and confirmed that he would follow thru on providing the information you require. He has been traveling quite extensively this summer in his business pursuits. In the event he has not been in touch regarding this requirement, he will do so soon knowing your critical timeline.

Thank you for your follow-up letter just received in yesterdays mail reminding us of your clarification meeting on water rights being held at 7:00 P.M. on 14 September at the Fremont County Court-house.

Thank you for keeping us informed on your water rights review process.

Sincerely


Norman J. G. Miller

1993 South 675 East
Bountiful, Utah 84010-4101
Tel: (801) 295-6117

19 July 2004

Extra Copy

RAY W. RIGBY, ATTORNEY
25 North 2nd East
Rexburg, Idaho 83440

Dear Ray:

Enclosed is a copy of The State of Idaho Department of Water Resources letter dated 24 June 2004, regarding a review of water rights in Basin 21, of Henry's Fork drainage. They have asked us to submit evidence of priority for SRBA water right claim 21-11165.

Inasmuch as all transfer of Deeds, Licenses, Decrees or Permits for our family was done by you, I was delighted when your name was suggested as the person I should write because you are so well regarded in your profession and specialization in irrigation water and property rights.

In order to respond to the The Idaho Department of Water Resources request for a 'quick response' to their inquiry, I am enclosing copies of the following documents that will hopefully facilitate your search for the 'acceptable documentation required'.

(1) WARRANTY DEED -- dated 3 August 1949 by Richard A. Hummel and Stella B. Hummel to Roy Stewart and Delila Stewart.

(2) GIFT DEED -- dated 21 December 1976 to Roy Stewart and Delila C. Stewart to their daughter Nelda C. Miller.

(3) QUITCLAIM DEED -- dated 2 October 1996 to Norman J.G. and Nelda C. Stewart Miller: Revocable Living Family Trust.

(4) FREMONT-MADISON IRRIGATION DISTRICT -- Notice of Operation & Maintenance Charges for the Year 2003 under I.D. #880., Specifying the number of Acre Feet of Storage Water owned and used on the above referenced farm. (193 Acre Feet)

We appreciate your efforts in providing the 'acceptable documents' and other information needed by The State of Idaho Department of Water Resources so their information will conform to our ownership rights.

Your reply should be made directly to Allen B. Ruberry, Sr. Water Resource Agent, Adjudication Bureau. Please send a copy to me for my file .

Thank you for your usual fine co-operation and for the excellent service you have provided us over many years.

Sincerely,

Norman J.G. Miller

Norman J.G. Miller
1993 South 675 East
Bountiful, Utah 84010
Tel. (801) 295-6117



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION
June 24, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

NELDA STEWART MILLER
1993 S 675 E
BOUNTIFUL UT 84010

RE: EVIDENCE OF PRIORITY FOR SRBA WATER RIGHT CLAIM 21-11165

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the beginning of water rights review in Basin 21, the Henry's Fork drainage. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. As the claimant, you are responsible for submitting the necessary proof to support the priority date.

Your claim, as referenced above, claims a Priority Date of APRIL 01 1949, from HENRYS FORK, SNAKE RIVER.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence which are acceptable and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some Examples of Documents Which May Be Evidence of the Priority Date". PLEASE READ THE ENCLOSED PAMPHLET.

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit documentation supporting the priority date as soon as possible,
referencing all documents with the corresponding claim number.

Respectfully submitted,



for Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on "Evidence of Priority"