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June 22, 1992

RE: 21-11973

Mr. Z. J. Egbert
1473 Highway 20
Ashton, Idaho 83420

Dear Z. J.:

I have now had an opportunity to review the documents in our closed file and to discuss the matter briefly with Eric Verner at the Idaho Department of Water Resource office. It looks like it might be possible to argue that the lawsuits filed in 1977 never finally resolved the issue of 125 miner's inches of 1893 water from Willow Creek. Judge Burton did enter a decree awarding Egbert Farms a 1957 water right for 125 miner's inches in the Henry's Fork and also awarded a decree to the Seeleys for 275 miner's inches of 1893 priority water in Willow Creek and 125 miner's inches of 1947 water in Willow Creek. Possibly the issue of another 125 miner's inches in Willow Creek with an 1893 priority was not finally disposed of and could still be determined by the adjudication court in the Snake River Basin Adjudication proceeding.

After speaking with Eric, it appears you have done all that can be done at this time by filing the necessary SRBA claims. Eric says he has inquired of the Boise office to see if the Department feels it can recommend the claim for the 125 miner's inches of 1893 water when the Director's Report is prepared. I expect you will hear from Eric when he gets some indication from Boise. It is difficult to speculate what the Department might conclude and I suppose there is about as much likelihood they would recommend in favor as against.

Mr. Seeley HAS 21-171 AND 170
Also Permits 7210 AND 7309

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For the present however, it does not appear that the Department will be able to do you any good in the 1893 priority from Willow Creek for this season. Perhaps you will get some benefit from the Department's actions with respect to rights in Skunk Creek, but in order to pump the two pumps on either side of the mouth of Willow Creek, it looks like you would need to acquire sufficient storage in some manner.

As always, if you have further thoughts or questions, please feel free to call at your convenience. I think when Eric gets some further input from the Boise office, he will contact us as well and perhaps we can visit further at that time.

Yours very truly,



Kent W. Foster

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