



File

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

January 26, 2006

Brett and Nancy Casperson
8893 E Maughan Road
Lava Hot Springs, ID 83246

Re: Subcase Nos. 29-13406

Dear Mr. and Mrs. Casperson:

I received your Interrogatories and Requests for Production of Documents to the Idaho Department of Water Resources ("IDWR"). However, since IDWR is not a party to the Snake River Basin Adjudication, such discovery requests are not allowed. See I.C. 42-1401B In a Pre-Trial Order on Basin-Wide Issue 5, Judge Wood noted that IDWR is not a party to the SRBA and therefore may not be served with interrogatories. *Order Setting Trial Date, Final Pre-Trial Conference etc. Subcase No. 91-00005-34 (Remaining General Provisions Unique to Basin 34) at 5 FN 1 (Issued June 13, 2000)*. In addition, I.R.C.P. 33(a), 34(a) and 36(a) authorize discovery requests to be served on parties only. Thus, I am requesting that you withdraw your discovery requests and any Notice of Service that you may have filed with the Court.

Much of the information you are seeking can be found in the Department's files. You may review the claim files, license files and other relevant documents at the Department during normal business hours. During the inspection you have the right to make a photocopy of any public record. As a matter of convenience for those who live away from the Department offices, the Department will photocopy the entire file(s) and mail a copy of the contents to you at a rate of \$.05 per page. I have asked that the entire claim file for 29-13406 and the overlapping water rights 29-10831, 29-10833 and 29-13407 be scanned and placed on the Department's website at www.idwr.idaho.gov under "On-Line Data" using the water right numbers.

In addition, many of the questions you asked will be answered in the Department's 706 Report that will be filed on or before April 26, 2006, in accordance with the Trial Scheduling Order in this matter. You will be sent a copy of the 706 Report when it is completed.

If you have any questions regarding this matter, please call me at (208) 287-4810.

Very Truly Yours,

A handwritten signature in cursive script, reading "Candice M. McHugh".

Candice M. McHugh
Deputy Attorney General

cc: Ernest Carlsen

RECEIVED
JAN 30 2006

Department of Water Resources
Eastern Region

Feb 17, 2006

- Mtg with Brett & Nancy Casperson -

RE: 29-13406 -

- After much discussion & reviewing all their water rights from Denny Creek I found the following:

- 1- Casperson land is also included as P.O.U. for Topaz Canal to which they have shares.
- 2- Topaz Canal filed for both decreed rights & extended season of use beneficial use rights.
- 3- 29-13406 is enlargement claim for ~~land~~ 59 acres historically irrigated from Topaz Canal.
Before I can recommend a different priority they need evidence that the decreed rights 29-174 thru 179 were diverted through Topaz Canal for irrigation.
- 4- 29-13407 could be amended from 1.2 cfs to 2.4 cfs provided they can show 2.4 cfs being diverted during non irrigation prior to 1932.
- 5- They have good evidence of early & late season irrigation but no quantity.

Telecon 4-04-06 at Randy Budge Office -
in attendance ~~Bill~~ Brett & Nancy Casperson,
Randy Budge & Eric above

1935 - Dad raised potatoes ~~below~~ Topaz Canal and
used water from Dempsey Creek to irrigate
potatoes. - Attempted to move water into High Ditch.

- Lowell born in 1921 - raised ~~and~~ on the place of use.

- What is the priority of Topaz Canal out of Dempsey Creek?

- Use of the water in 1935 was described in his dad's journal.
- Read his journal.

- Lowell and his brother irrigated from the high ditch
early and late. He does not recall making a decision
to cease diverting ~~water~~ secured rights to increase
quantity received through the Topaz Canal.

Topaz heading from Dempsey Creek is at Placer.

Topaz Canal - after Sept. 15 was divided 3 ways. -
Got permission from other users to put water in High
Ditch.

(435)-628-2438. - Lowell Maughan.

RD

MERRICK

30
31
29
32

Exhibit C

Map from Barnock Cnty
Spad

Date 1941

T

Zoomed/
Centered

9
on
Casper's

place

S
Fagnat
Place