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December 19, 2005

RECEIVED
DEC 21 2005
Department of Water Resources
Eastern Region

Ryan Mikesell
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

Re: Preliminary Recommendations for Water Rights Nos. 21-172 and 22-11973

Dear Mr. Mikesell:

We are writing this letter on behalf of Mr. ZJ Egbert regarding the revised preliminary recommendation for Water Right No. 21-172, and the Preliminary Recommendation disallowing water right No. 21-11973. Mr. Egbert has asked us to do all we can to persuade IDWR to consider a recommendation for a right to the waters of Willow Creek in the amount of 2.5 cfs with a priority of December 6, 1893, to be diverted from Henry's Fork on an exchange basis as one of the extremely important rights for irrigation of some 524.5 acres of his farm. A 1957 priority is essentially valueless, is not the priority which has been relied upon historically for this amount of water by the Egberts, and would render a significant portion of the farm unirrigable in most years.

You already know that Egberts acquired much of this farm land from one AJ Spratling who represented to them that 200 miner's inches of Willow Creek water with a priority of December 6, 1893, went with the land. In 1957, they installed pumps in the back waters of the reservoir on Henry's Fork created by the Utah Power and Light Company dam on Henry's Fork River and have diverted 2.5 cfs for irrigation of their lands under their claim of exchanging Willow Creek water with the 1893 priority ever since.

Even though the District Court awarded Egberts a similar amount (2.5 cfs) of the waters of the Henry Fork with a 1957 priority, Egberts have never been able to rely on such a right. In most years, they could not have irrigated as they have done for nearly 50 years if they had relied on a 1957 priority.

Ryan Mikesell
Idaho Department of Water Resources
December 19, 2005
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We assume you already have copies of the old water location notices of Spratlings and are familiar with the documentation from the 1977 litigation in which Egberts were involved. But, if we may provide any additional documentation or information, please feel free to contact us at your convenience. Thank you for your kind consideration in this matter.

Yours very truly,



Kent W. Foster

c: ZJ Egbert