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January 4, 2007

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DEPARTMENT OF
WATER RESOURCES

IDWR Regional Office
Attn: Mr. Donald Shaff
322 E. Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Preliminary Recommendation: 73-187B

Dear Mr. Shaff:

As you may know, this firm represents the Triple T Summit Ranch and Edwin and Linda Thomas. In that regard, I thank you for your letter of December 4, 2006, addressed to Mr. Thomas. However, we are still confused by several references in your letter. Accordingly, Mr. Thomas and I would like to meet with you to attempt to resolve certain remaining issues we have concerning your amended preliminary recommendation with respect to #73-187B. They are as follows:

1. As to the quantity provision, we do not believe that any remark should be placed in the recommendation other than the actual quantity of "2 CFS." At the very least, we are pleased that the word "only" was dropped from the preliminary recommendation regarding this right. This should forestall any contention that the 814 Transfer aimed to eliminate Summit Ranch's share of Big Gulch water, which share was an accomplished fact for 32 years before the 814 document was created and for 44 years thereafter. (See Exhibits B-1 through 4 attached to Notice of Error submitted to your office on September 26, 2006, as well as affidavits of Messrs. Whitworth, Martiny and Hanson, delivered to your offices on October 9 and 17, 2006, respectively).

2. We are confused, however, by your observation regarding Ms. Brown's October 13 memo. It clearly does not rest upon the Walton Protest of almost a half a century ago. She seems instead to be referencing something much more recent. Can the Department shed any further light on what we should be negotiating about with our "neighbor?"

3. Does the Department question the relevance or credibility of the factual submissions it asked for and we provided which details the history of Big Gulch water delivery for the last eight decades?

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4. You have mentioned the "Walton Protest" several times. We are puzzled by this and are constrained to ask whether it is the Department's position respecting the 814 Transfer that because of that protest, O.H. Swauger decided not to transfer the 2 cfs of Big Gulch water awarded him under the 1910 Decree to the Summit Ranch and instead, determined to abandon same to non-beneficial use?

Please advise when we might meet with you on these matters. Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

A handwritten signature in black ink, appearing to read 'Fritz X. Haemmerle', with a long horizontal flourish extending to the right.

Fritz X. Haemmerle

FXH: fxh