



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

22-13245, 22-13246,
22-13626, 22-13634,
22-13639 & 22-12018

January 6, 2010

VIA ELECTRONIC & FIRST CLASS MAIL

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, P.L.L.C.
1000 Riverwalk Dr., Ste. 200
P.O. Box 50130
Idaho Falls, ID 83405

Re: Basin 22 Teton Creek settlement proposal and request for documents

Dear Rob:

I received your December 9, 2009, letter to my colleague, Garrick Baxter, requesting documents for Basin 22 water right claims in Teton Creek. As you know, I am now handling these matters on behalf of the Idaho Department of Water Resources ("IDWR").

In your letter, you propose a settlement to resolve SRBA subcase numbers 22-13245, -13246, -13626, -13636, -13637, -13639, and -12018 ("Water Rights") with a remark that recognizes the historical use of the side channel. I presented your proposal to IDWR. Using strikethrough and underlining to indicate slight modifications to the proposed language, IDWR agrees to a remark in the Explanatory section of the Water Rights that states, "Water is ~~delivered~~ conveyed through a side channel of Teton Creek, with the beginning of the side channel located at T5N., R45E., Sec. 25, SWSE." As we have discussed, if it proves helpful, IDWR is willing to write a letter to you regarding IDWR's recognition of the use of the side channel as the conveyance means from the recommended point of diversion on Teton Creek to the various places of use reflected in the Water Rights.

While discussing the proposed settlement last month, you and I both agreed that, at this time, emphasis should be placed on settlement instead of document production. Pursuant to agreement, then, IDWR will hold off on responding while we continue negotiations.

In hopes that your clients find the above remark agreeable, IDWR has begun preparing the necessary settlement documents ("SF5s") for each of the Water Rights. Michael Holliday, the IDWR agent assigned to the Water Rights, has identified additional elements of some of the Water Rights that should be adjusted, i.e., increased quantity, improved priority date, etc. Please let me know what your clients decide, and if the remark resolves their concerns, I will forward to you the SF5s for review and signatures.

If you have questions about this matter, please contact me at (208) 287-4810.

Sincerely,

A handwritten signature in blue ink that reads "Andrea L. Courtney". The signature is written in a cursive style with a long, sweeping tail on the "y" at the end.

Andrea L. Courtney

Cc: Michael Holliday