



Holden Kidwell
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L A W O F F I C E S

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DEPARTMENT OF
WATER RESOURCES

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January 29, 2010

Andrea Courtney
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Idaho Department of Water Resources
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35-2019

RE: Response to Letter Dated December 11, 2009.

Dear Andrea:

This letter is in response to your letter dated December 11, 2009, concerning Subcase No. 35-2019. The claim was originally filed by my client Jeff & Bridgette Stieglitz, but is now being pursued by Donnetta Nelson. As we have stated in our recent appearances in this matter, my client currently has pending litigation against the Nelsons pertaining to the water rights issues surrounding this property. They have now stepped forward to prove up the water rights they represented existed on the property. Consequently, we have elected to monitor the proceedings, but not directly participate at this point. In response to your letter, you request information for irrigation prior to November 17, 1987. As my clients did not own the property, they do not have personal knowledge of the irrigation and use of points of diversion on the property.

It is our understanding from comments from Ms. Nelson and her family members, Mr. Nelson placed hay bales in the Spring Creek channel to flood irrigate various portions of the property.

Regarding the date of the installation of the head gate referenced in your letter, as recent purchasers of the property, we do not know when the headgate was installed.

Lastly, your letter requests a determination to the extent of wetlands on the claimed place of use. In response to this question, we acknowledge that this property has significant wetland vegetation, but we do not have any technical evidence of the extent of wetlands on the claimed place of use. As you are likely aware, the determination of what does or not constitute a wetlands is best determined through experts who could perform a wetlands delineation on the property. We are therefore unsure how much of the property is actually considered wetlands, other than to view aerial photography and make our best estimation. We have previously provided GIS maps of the property,

and it appears that a majority of the wetlands exist next to the stream channel up to where it appears cultivated on both sides of the creek.

We regret that we do not have more helpful information, but anticipate that the Nelsons would have a majority of the materials you are requesting. We appreciate your attention to this matter. If we can be of any further assistance, please let us know.

Best Regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

c: Randy Budge
Jerry Rigby