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January 27, 2020

Dave Renberg
40826 Little Canyon Road
Peck, ID 83545

Doug Jones
Regional Manager
Department of Water Resources
Northern Region
7600 N Mineral Dr. Ste 100
Coeur d'Alene, ID 83815

Dear Mr. Jones:

I am requesting intervenor status for Transfer No. 83543 for changes to the following water rights within Nez Perce County: #85-15799 and #85-15800.

I previously submitted a Notice of Protest to Transfer No. 83543 with the information that is provided below. The protest form was sent priority mail from Lapwai, ID on December 6, 2019 to ensure that it arrived at your office in Coeur d'Alene by the due date of December 9, 2019. Unfortunately, the U.S. Postal Service routed my priority mail from Lapwai to Spokane and then to Springfield, MA before the letter finally worked its way back across the country to Coeur d'Alene on December 12, 2019. Because my protest did not arrive on December 9, 2019 it was rejected by your office.

Therefore, I am providing the following information in my request for intervenor status.

My home and farm are located at 40826 Little Canyon Rd on the banks of Little Canyon Creek, immediately downstream and adjacent to the property recently purchased by Jarred M Holz and Jessica R Holz. Attached is a map printed from the Idaho Department of Water Resources (IDWR) website that identifies the location of my farm (Renberg).

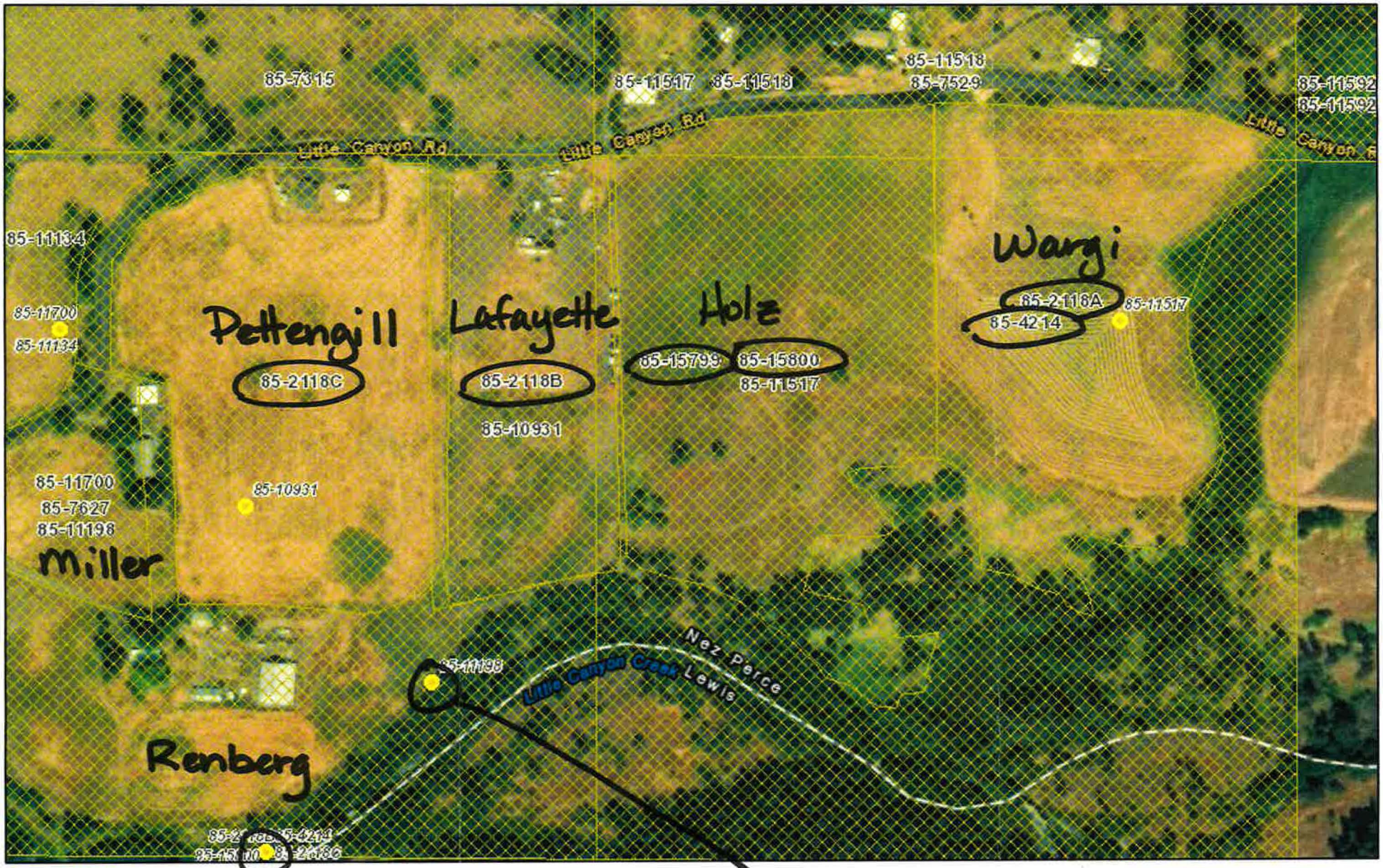
I have lived at this location and own several other pieces of property in the Little Canyon Creek canyon which I have farmed since 1994. I have leased and farmed (for grass hay) the property that the Holz's have purchased (associated surface water rights 85-15799 and 85-15800) and the 20 acres next to it (Ray Wargi's – associated surface water rights 85-2118A and 85-4214) continuously for the last 25 years (from 1994 to 2018). During those 25 years I did not, nor did anyone else, utilize the surface water rights associated with this property to withdraw water from Little Canyon Creek to irrigate.

The farm I live on was previously a dairy farm which included parcels of land that were split off and sold to other families. The water rights associated with these parcels of land were also split off. Therefore, water rights:

85-2118A	85-2118B	85-2118C	85-4214	85-15799	85-15800
2/14/1957	2/14/1957	2/14/1957	6/1/1959	2/14/1957	6/1/1959

Figure 1. Map of Little Canyon w/ water rights owners & POD.

ArcGIS Web Map



POD for circled water rights

Spring

1/22/2020, 4:31:05 PM

POU - Water Rights

All Other POU (non-provider)

Irrigation Providers and Municipal Service Areas

POD - Water Rights

1:4,514

0 0.03 0.05 0.1 mi

0 0.04 0.08 0.16 km

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin,

Web AppBuilder for ArcGIS

Esri, HERE, iPC | USDA FSA, DigitalGlobe, GeoEye | USGS TNM – National Hydrography Dataset. Data Refreshed January, 2020. | Idaho Department of Water Resources | Esri, HERE, Garmin, iPC |

were all part of the original farm and all have the same point of diversion (Figure 1. Map of farm).

The Point of Diversion for all these water rights is located on my property just over the hill from my house and barn. In the 25 years I have lived on this property the Point of Diversion and water rights associated with it have never been used. In fact, according to my neighbors, whose family operated the dairy farm, water withdrawals from the Point of Diversion for irrigation ended sometime before or around 1985. All that currently remains at the Point of Diversion is an old empty pump house and some buried piping infrastructure (Figure 2).

Figure 2. Picture of old abandoned pumphouse structure where pump and piping used to be for withdrawing water (Point of Diversion) to irrigate the farm (water rights 85-2118A, 85-2118B, 85-2118C, 85-15799, 85-15800, 85-4214). Renberg barn in background.

Therefore, it's been at least 35 consecutive years since the water rights listed above have been used. Based on my understanding of Idaho water code water rights may be lost if there is not continuous use for a five-year period. Although water rights have #85-15799 and #85-15800 have been transferred to a new owner, updating the ownership record for a water right does not reconfirm the validity of the right. Based on my knowledge of lack of beneficial use of the water rights associated with Transfer #83543 for over 35 continuous years these rights are neither active nor valid.

However, if Transfer #83543 were to move forward I am concerned that moving the point of diversion would injure the water right associated with the domestic water supply for my home and farm. Water right 85-11198 (priority date 6/14/1929), owned by Jim and Nancy Miller, supplies both my farm and their residence with domestic water supply. This sharing agreement is spelled out in the deeds for our properties. This water right is for a spring located on my property (Figure 1) approximately 500 feet upstream from the current Point of Diversion.

This spring is located on the bank of Little Canyon Creek just several feet from the stream (Figure 3). The spring structure consists of three-foot diameter cement rings stacked on top of one another to a depth of approximately 20+ feet. The pump and piping is contained within the structure. The base or bottom of the structure is at or below the level of the creek bed.

Figure 3. Picture of spring structure – circular cement structure with power supply box. Approximately 3 feet of structure is above ground, the remaining 17 feet is buried.

The spring has very high connectivity to Little Canyon Creek. During run off or turbid high water events the water coming out of the tap in my house from the spring is murky or cloudy. Often, during the summer months of the year when the creek level is very low there is very little supply from the spring. At these times the water level in the spring structure is at the same level as the water in the creek. Several times over the recent past summers both the Millers and I have had to truck water in to supply both domestic and stock water for our homes and my farm. I have a very strict water budget during the summer. I do not water my lawn nor am I able to have a garden because of the short supply of water in July & August. In the last 25 years I have lived on Little Canyon Creek I have noticed this has occurred more and more frequently. It's been my observation that the water supply/creek flow in Little Canyon Creek has been decreasing over the years, especially during the summer months. We are currently struggling having enough water for domestic purposes without irrigation diversions upstream of the domestic spring. Consequently, I am very concerned that if the Point of Diversion change as proposed is moved upstream of our domestic spring location and 0.25 cfs or 112 gpm are being removed from the creek (especially in the summer months when irrigation typically occurs) that it will have a negative and injurious impact on both myself and the Millers domestic water supply, which is not in the local public interest.

I am further concerned about several items in the application materials for transfer of Point of Diversion. For example:

1. The application asks for a description of "the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future"

The applicants responded, "high pressure, low volume pump, point of discharge to storage pond from point of diversion"

There is no description or identification of the complete diversion system, a measuring device or lockable controlling works.

The applicants identify a storage pond but no description of the pond (volume based on 24-hour fill allowance calculations).

How can there be an assessment & determination of no negative impact to water rights downstream without this information?

2. The August 19, 2019 memorandum for review & evaluation of sufficiency information prepared by Shawn Maxey contains several errors and false information.

- "The Applicants intend to stop use of the existing POD if the Transfer is approved."

The Applicants have never used the existing POD. The existing POD has not been used for over 35 years.

- "Water Right Validity: (IDWR) records indicate that Water Rights 85-15799 and 85-17800 are in Active Status and no portion has been forfeited for non-use in the last five years."

While IDWR computer records do indicate these water rights are active in actuality they have not been for over 35 continuous years. A field visit would have identified this as an issue.

- "The new Point of Diversion (POD) is not close to PODs used by other parties or other Water Rights. Adverse impact to any existing Rights is unlikely."

As identified in this letter there are several water rights in close proximity to the new proposed Point of Diversion, the spring (approximately 600 feet downstream) providing domestic water to my farm and the Millers (85-11198) and four other water rights (85-2118A, B, C & 85-4212) which are approximately 1,100 feet downstream that may be adversely impacted.

Thank you for your review and consideration of my concerns.

Sincerely,

Rebecca Johnson for

Dave Renberg

Enclosure

Cc: Jared M Holz and Jessica R Holz, 501 S Wickham Fen Way, Boise, ID 83709

Jim and Nancy Miller, 40880 Little Canyon Road, Peck, ID 83545