

Anderson Nelson Hall Smith, P.A.

ATTORNEYS

January 4, 2005

Gary Spackman
Idaho Department of Water Resources
1301 North Orchard Street
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Boise, Idaho 83720-0098

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RECEIVED
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Blake G. Hall
Marvin M. Smith*
Scott R. DeBruin
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Steven R. Parry*
Brian T. Tucker
Jeffery W. Banks
Wiley R. Dennert
W. Joe Anderson
(1923-2002)

*Also member of Utah bar

Re: *Water Right No. 22-7792*

Dear Mr. Spackman:

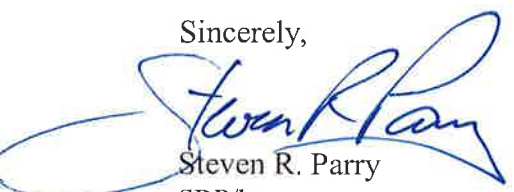
Thank you for your letter of December 28, 2004. Your December 28 letter references Jerry Rigby's letter of September 30, 2004, but does not reference my response letter to you of October 1, 2004. It appears, therefore, that you may not have received that letter and therefore I am enclosing a duplicate copy for your review.

Your December 28 letter states that the property and well are owned by Catherine Rowan and the application in her name and therefore without additional information to the contrary "it appears that Catherine Rowan is entitled to inchoate ownership of application no. 22-7792." This ignores entirely the second paragraph of my letter of October 1, 2004. Those circumstances that were essentially identical in the case which went to the Idaho Supreme Court and determined that the Rileys owned certain water rights that were then situated on Rowan's ground. There would be absolutely no logical explanation to treat the water reflected by application no. 22-7792 any differently. The parties had met with the Department prior to the filing of the application by Rowan which was done without any notice to the Rileys. If there are any water rights associated with application no. 22-7792, they must be divided evenly between Rowan and the Rileys.

As indicated to you in my October 1 letter, this firm now owns the water rights under 22-07280B and as the successors to the Rileys may also be successors to the claims under application no. 22-7792. This firm no longer represents the Rileys and therefore I am sending a copy of this letter to them as well as to Jerry Rigby.

Your letter indicates that the application on 22-7792 will be held without action until the issue raised in the Delis Farms' case is resolved. Consequently, I anticipate that we will receive notice at that time and the issue will be resolved consistent with the rulings of the Idaho Supreme Court.

Sincerely,



Steven R. Parry

SRP/ks

Enclosure

cc: Jerry Rigby

Norman and Robin Riley

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October 1, 2004

Gary Spackman
Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, Idaho 83720-0098

Re: *Water Right No. 22-7792*

Dear Mr. Spackman:

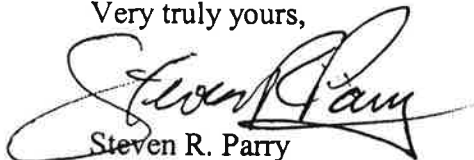
Thank you for your letter of September 8, 2004. I have also just received Mr. Rigby's letter of September 30, 2004. Although we have not formally withdrawn on this matter, my firm no longer represents the Rileys and with this letter I am forwarding on to them a copy of your September 8 letter and Jerry Rigby's September 30 letter. Consequently, I ask that you allow the Riley's time to present these documents to their new attorney as it may affect their rights. In addition, this firm now holds certain water rights held by the Rileys and may directly have a claim as well. Consequently, may I request that you send future correspondence both to myself and directly to the Rileys at 1623 W. 3400 S., Rexburg, ID 83440.

Considerable litigation occurred before the Idaho Supreme Court confirmed that the original water rights under License 22-07280 were owned 50% by the Rileys and 50% by Rowan. To the extent that any water rights accrued on the 160 acres south of the railroad tracks, both the spirit and letter of the Supreme Court's ruling would require that those water rights also be owned 50% by Rowan and 50% by the Rileys as the successors to Jim Howe. Jim Howe and the Rileys applied the water and took all other steps the same as was done for the land north of the railroad tracks. There is no basis to treat this water any different than the Supreme Court ordered after extended litigation.

So that this matter can move forward, I would suggest that the Department set forth a briefing schedule or other input deadlines. Obviously these are complex issues and it would be in the best interest of all parties to have the matter formally resolved.

I look forward to hearing from you.

Very truly yours,


Steven R. Parry
SRP/ks

cc: Jerry Rigby
Norman and Robin Riley

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