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RECEIVED
MAY 06 2019
Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 82640 IN THE	)	RESPONSE TO MOTION
NAME OF CLINTON K. AND ESTELITA ASTON	)	
	)	
	)	

Protestant, Jay Norman Fonnesebeck, hereby responds to the motion, made by counsel for and behalf of Mr. Clinton Aston, to dismiss the Petition for Reconsideration by Fonnesebeck and requests that the Hearing Officer find in his discretion, that he is justified in accepting such petition despite an error made by Fonnesebeck in the mechanics of submitting petition via email to the other parties remaining in this contested case.

Argument

Fonnesebeck accepts that he did in fact receive a copy of an email from Mr. Cefalo giving Spradlins an opportunity to correct what appeared as their attempt to submit a Petition for Reconsideration. As has been reasonably consistent with Mr. Cefalo's email communications, what information that is sent to one party is sent to all the active parties in this case in what appeared to Fonnesebeck as a group mailing. Therefore Fonnesebeck chose to attach his Petition for Reconsideration to such a group mailing with the expectation that by doing so it would be received by all the pertinent parties as still recognized by the

Hearing Officer. This he did and for all intent and purposes believed that in a timely manner all the pertinent parties to this case had received a copy of the petition.

On Friday, the 19th of April, Fannesbeck learned from Sharla Cox at the IDWR that only Mr. Cefalo had received a copy and it became apparent that Fannesbeck must have used the "reply" and not the "reply all" tab to send his email. This was fully unintentional, and upon learning of the situation, resubmitted the petition as soon as was possible.

With this matter, the claimant is choosing to ignore the latitude, that has been extended to his own errors, by the Hearing Officer: examples include repairing Quit Claim Deeds, failure to file picture for exhibit 115 before deadline, false and misleading statements and information, derogatory misspelling of names in Motion to Dismiss, etc... documents speak for themselves.

By the Standard of being helpful and trying his best to be consistent and allow enough latitude to not let this case be overrun by technicality, this Hearing Officer is very much justified in allowing Fannesbeck's petition for reconsideration and the motion to dismiss should be denied.

Dated this 5th day of May 2019



Jay Norman Fannesbeck
Protestant

CERTIFICATE OF SERVICE

I certify that on this 6th day of May, 2019 I have served a copy of the described document to the following via e-mail:

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Jay Norman Fannesbeck
protestant