

HOFSTETTER LAW OFFICE

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May 23, 2014

RECEIVED

MAY 27 2014

DEPARTMENT OF
WATER RESOURCES

Craig Saxton
Water Rights Supervisor
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Water Right Permit Nos. 65-22950 and 65-22953

Dear Mr. Saxton:

This letter responds to your May 13, 2014, letter regarding the above-referenced Permits. After submission of the February 7, 2014, Applications for Amendment, Sandy Hemenway, Mike Ciscell and I had discussions about the appropriate legal descriptions for the places of use and points of diversion. BLM had provided a map with a very unusual description of the government lots which caused me a great deal of confusion. As a result of these discussions and subsequent to the February 7, 2014, Applications for Amendment, I sent Ms. Hemenway the enclosed February 21, 2014, letter with new proposed Applications for Amendment. I believe that is the last communication I had with Ms. Hemenway regarding this matter.

Please let me know if you have any further questions or need anything additional in connection with this matter. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC



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February 21, 2014

Sandy Hemenway
Senior Water Resource Agent
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Water Right Nos. 65-22950 and 65-22953

Dear Ms. Hemenway:

I recently received copies of the revised Applications for Amendment for Licensing Purposes for the two (2) above-referenced water rights with your letters dated February 15, 2014. I appreciate your following up with BLM on this matter. However, I continue to believe that the revised Applications for Amendment for Licensing Purposes are not consistent with usual Idaho Department of Water Resources ("IDWR") practices for describing places of use and points of diversion, as I have become familiar with them in my over 25 years of representing water users in the Snake River Basin Adjudication ("SRBA"). Since most historic water rights are now described based on SRBA Partial Decrees, my concern is that these new Licenses will not be consistent with the Colwell's other rights decreed in the SRBA, raising questions in the future about the reasons for the differences.

In the SRBA, water right places of use and points of diversion are required by statute to include quarter-quarter section descriptions. Thus, IDWR practice in the SRBA is to include both a quarter-quarter section and, where one exists, also a government lot description. Where a government lot covers an area that would include two or more 40 acre quarter-quarter sections, IDWR practice in the SRBA has been to list all of the respective quarter-quarter sections along with the government lot identifier. This can result in numerous quarter-quarter sections being listed for the same government lot. I have marked up the latest revised Applications for Amendment for Licensing Purposes

Sandy Hemenway
February 21, 2014
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for the two (2) above-referenced water rights that you provided with your letter of February 15, 2014, consistent with what I understand to be IDWR practice in the SRBA. I would request that the points of diversion and places of use for these rights are licensed as described on the enclosed. If this appears acceptable, Please let me know and I will obtain George Colwell's signature on these Applications for Amendment for Licensing Purposes.

Please let me know if you have any questions or need anything additional in connection with this matter. Thank you.

Sincerely,

HOFSTETTER LAW OFFICE, LLC

A handwritten signature in black ink, appearing to read "Dana Hofstetter", with a long horizontal line extending from the end of the signature.

Dana L. Hofstetter

Enclosures

cc: George Colwell w/ enclosures

Michael Ciscell w/ enclosures

4001.2/10683

(Signature)

Amended

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

Amended

(For Licensing Purposes)
WATER RIGHT NO. 65-22950

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100.00 Received by: CS #: C098298 Date: 2/7/2014

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 65-22950 with the following:

CONDITIONS OF APPROVAL

1. This right does not authorize construction of any new drains or enlargement of any existing drains.
2. To the extent that the source of water diverted under this right is waste water, it is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
3. The annual diversion rate and volume identified for this right are the rate and volume of water that can be consumed by the stock. This right shall not limit the rate and volume of water that may flow in the unnamed drain.

Witness my hand this _____ day of _____, 2014.

GARY SPACKMAN
Director

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT

AmendedAmended

(For Licensing Purposes)

WATER RIGHT NO. 65-22953**Date of Priority:** September 11, 2003

Maximum Diversion Rate: 0.12 CFS
Maximum Diversion Volume: 6.7 AF

Comes now GEORGE E COLWELL
3990 HWY 52
PAYETTE ID 83661

And/Or

CHERYL F COLWELL
3990 HWY 52
PAYETTE ID 83661

and represents to the Director of the Idaho Department of Water Resources that he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 65-22953, and requests that the permit be changed as follows:

Source: UNNAMED DRAIN**Tributary:** SNAKE RIVER

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
STOCKWATER	01/01 to 12/31	0.12 CFS	6.7 AF

LOCATION OF POINT(S) OF DIVERSION:

UNNAMED DRAIN L5 (NW1/4SW1/4)	Sec. 32, Twp 09N, Rge 05W, B.M.	PAYETTE County
UNNAMED DRAIN L5 (NW1/4SW1/4)	Sec. 32, Twp 09N, Rge 05W, B.M.	PAYETTE County
UNNAMED DRAIN L3 NW1/4NW1/4	Sec. 32, Twp 09N, Rge 05W, B.M.	PAYETTE County
UNNAMED DRAIN L3(NE 1/4 NW 1/4)	Sec. 32, Twp 09N, Rge 05W, B.M.	PAYETTE County

PLACE OF USE: STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09N	05W	32					X	X	X					X					
09N	05W	32 L3					L3	L3	L4					L5					

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk. Signed this _____ day of _____, 2014.

(Signature)

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 65-22953

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$100.00 Received by: CG #: C098297 Date: 2/7/2014

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, GARY SPACKMAN, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 65-22953 with the following:

CONDITIONS OF APPROVAL

1. This right does not authorize construction of any new drains or enlargement of any existing drains.
2. To the extent that the source of water diverted under this right is waste water, it is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.
3. The annual diversion rate and volume identified for this right are the rate and volume of water that can be consumed by the stock. The right shall not limit the rate and volume of water that may flow in the unnamed drain.

Witness my hand this _____ day of _____, 2014.

GARY SPACKMAN
Director