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JAN 02 2014

DEPARTMENT OF
WATER RESOURCES

fax received
Dec 31, 2013

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
PERMIT NO. 65-23493 IN THE NAME OF	)	PETITION FOR CLARIFICATION
ALLEN RANCH LLP AND APPLICATION FOR	)	OF INTERLOCUTORY ORDER
TRANSFER NO. 78252 IN THE NAME OF	)	DATED DECEMBER 24, 2013
ALLEN RANCH LLP	)	
_____	)	

The Applicant, Allen Ranch LLP, submits this petition for clarification so that the intent of the parties in reaching settlement as set out in the two conditions is properly reflected in the Department's Interlocutory Order. The wording of the Interlocutory Order needs only a slight modification to achieve this result and avoid any inadvertent ambiguities.

The evidence at the hearing up to the point settlement among the parties was reached revealed that due to the physical configuration of the Rock Creek/Little Rock Creek confluence, there was the potential for significant resource damage and/or flooding if the flows in Little Rock Creek are blocked during springtime. This evidence came from the Applicant, the Water Master, and some of the Protestants. The Interlocutory Order

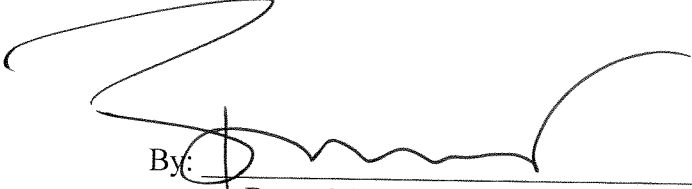
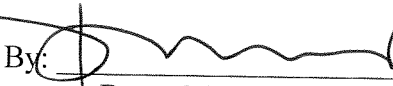
should acknowledge this concern so that it is clear that during the period December 1 to March 14 that the Little Rock Creek channel cannot be blocked so that spring flows can continue down Little Rock Creek and Rock Creek as currently occurs. The conditions developed by the parties with regard to the Applicant not using temporary diversion structures after December 1 was designed to ensure that while no water would be diverted from Rock Creek into Little Rock Creek after December 1 using temporary diversion features that Little Rock Creek would also not be blocked during that period so as to avoid the risk of flooding and resource damage to the area around the confluence or to the downstream properties. The parties agreed this situation is to be overseen by the water master to help avoid the risk of flooding and resource damage particularly since the Rock Creek/Little Rock Creek confluence may be unreachable during the early spring.

The second clarification that should be incorporated in the Interlocutory Order is that the applicant agreed to allow a bypass flow of .40 -.54 cfs in Rock Creek during April 15 – October 15 to supply the downstream uses identified in the hearings. This condition provided assurances those downstream users would be able to obtain their water supply while allowing the Applicant to use flows in excess of the necessary bypass amount for irrigation/stock use at Applicant's lower point of diversion. The Interlocutory Order should clarify that the bypass flows were intended only to provide assurances to those downstream water rights identified in the hearing, not new applications. The Applicant has identified at least one new application, No. 65-23521, for irrigation which appears may divert water between the West Mountain HOA point of diversion and the Applicant's lower point of diversion. The bypass flow was not intended to be used for providing water to new applications.

With these two minor clarifications of facts underpinning the agreed upon settlement conditions, the Interlocutory Order would appear to incorporate the intent of the parties and to not jeopardize the good faith settlement reached at the hearing.¹

Respectfully submitted this 31st day of December, 2013.

MOORE SMITH BUXTON & TURCKE, CHTD.


By: 
Bruce M. Smith
Attorney for Allen Ranch LLP

¹ Applicant note the Interlocutory Order requires any petition to be filed by January 6, 2013. This is assumed to be just a clerical error and was meant to be January 6, 2014.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of December, 2013, I caused to be served a true and correct copy of the foregoing **APPLICANT'S PETITION FOR CLARIFICATION OF INTERLOCUTORY ORDER DATED DECEMBER 24, 2013** via prepaid, U.S. Mail, to the following:

Original to: (Via Facsimile)

Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, ID 83720-0098

Copies to: (Via First Class U.S. Mail)

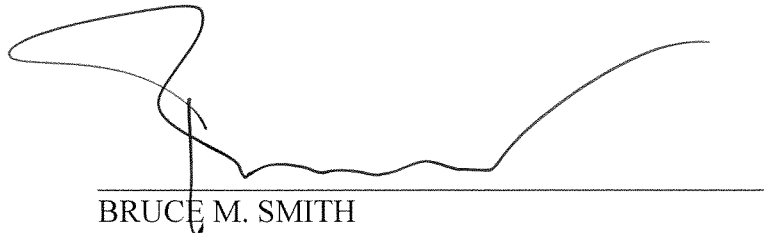
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