February 22, 2013

Idaho Department of Water Resources
Western Regional Office
Attn: John Westra, Manager
2735 Airport Way
Boise, ID 83705-5082

To John Westra:

As a domestic senior water rights holder, I am requesting The Idaho Department of Water Resources stop the owners (see last page) of Water Right No. 61-12112 (referred to hereafter as the Corporation) from irrigating land adjacent to my property. This action will prevent further degradation of the aquifer in the "*Cinder Cone Butte Critical Ground Water Area*" (CCBCGWA) and subsequent loss of water to my home and my neighbors' home.

I further request a review of all water rights within the CCBCGWA to determine the correct diversion rates and volumes for the CCBCGWA where there is **insufficient** ground water to provide a **reasonably safe** supply for irrigation of cultivated lands at the current rate of withdrawal.

I also request answers to several questions within this letter which will allow me to determine my next course of action.

Historical Data

The historical data of my well's static water level, under water right no. 61-11833, documented by IDWR and USGS since 1976 has shown a significant degradation between September 14, 2010, and October 25, 2012. This degradation directly corresponds to the irrigation of approximately 225 acres adjacent to my property which began in the spring of 2010.

This continued degradation has now put my family and my neighbor's family who are served by my well in a crisis situation. Between the months of October 2012 and mid-January 2013 both homes served from this well experienced significant amounts of entrapped air from fixtures when the water was used. This entrapped air indicates that my well's water level was dropping below the pump intake during that period of time. Given the historical static water level degradation, unknown recharge rates, and continued exorbitant water use for irrigation of the adjacent land, we fear that my well will run dry several months into the irrigation season rendering two homes uninhabitable without water.

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IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION

The order pursuant to Section 42-233a of the Idaho Code established May 7, 1981, designated the area of Elmore County where my well is located, as *"Cinder Cone Butte Critical Ground Water Area."* Section 42-233a, Idaho Code requires the department of water resources to designate areas as "critical ground water areas" in all situations where there is **insufficient** ground water to provide a **reasonably safe** supply for irrigation of cultivated lands, or other uses at the current rate of withdrawal.

Western States Water Law states that the pumpage from an aquifer is to be limited by IDWR to prevent its probable mining. In consideration that this area is a CGWA, I expect that limiting water withdrawal from the aquifer would be a priority. As noted on the IDWR website through HYDRO.ONLINE, one of the Corporation's two irrigation wells has had static water level checks performed regularly since 1979. The recent data indicates that from March 3, 2010, through October 25, 2012 **(2 years 7 months)** the static water level in only that one well has dropped 54 feet. Data from the Corporation's second well is not available.

In consideration of this data, I ask how many wells must go dry before IDWR determines that there is a water shortage and begins the process to prevent the mining of the aquifer and subsequent injury to all domestic wells in the CCBCGWA?

To determine my next course of action to stop the continued degradation of my wells static water level, I am requesting a response to the following questions:

1. Article 15 Section 3 of the Idaho State Constitution gives preference to domestic uses over all other uses.
    a. When is the determination made to give preference to the domestic uses?
    b. Who has the responsibility to make this determination?
    c. What are the guidelines for making this determination?

2. How low do static water levels have to be before a water district is formed to prevent the mining of the aquifer?
3. How low must the static water level go to declare an injury of my water right?
4. Do I have to run out of water before I can declare injury?
5. At what point does the Prior Appropriations Doctrine apply?
6. What are the procedures for making a "call" on my water right?

Summary

Despite knowledge of insufficient groundwater for the last 32 years in the *"Cinder Cone Butte Critical Ground Water Area,"* the allowance under *"Conditions of Approval"* listed on the Corporation's Water Right No. 61-12112 allows for the withdrawal of 323 million gallons of water per year while my well's static water level continues to degrade. As a domestic senior water rights holder this interference is unacceptable. I have suffered material injury and request engagement of IDWR to stop this exorbitant withdrawal of water from the aquifer in the *"Cinder Cone Butte Critical Ground Water Area"* before permanent injury occurs. Additionally, I request a review of all water rights within the CCBCGWA to determine the correct diversion rates and volumes for this Critical Ground Water Area where there is **insufficient** ground water to provide a **reasonably safe** supply for irrigation of cultivated lands at the current rate of withdrawal.

As a domestic senior water rights holder within the *"Cinder Cone Butte Critical Ground Water Area,"* having to incur the economic hardship of installing a new well due to the exorbitant consumption of water from the Corporation's irrigation wells and through no fault of my own is an unacceptable situation. I am in a crisis situation and hope to gain some resolve through you and your department. Please help!

Sincerely,

James C. Scheff

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