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December 23, 2010

RECEIVED

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Department of
Education

Idaho Department of Water Resources, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

RE: *Notice of Change of Water Rights Ownership (13-885A & B; 13-886A & B,
13-886A & B; 13-887A & B and 13-889C & D)*

To Whom it May Concern:

Please find enclosed a *Notice of Change in Water Rights*, filed on behalf of Miller Family Real Estate, L.L.C. ("Miller"). Also included, you will find a check for \$100. This *Notice* and filing fee is to change half of the above water rights (13-885A, 13-886A, 13-887A and 13-889C) to reflect Miller's ownership of those water rights. A second *Notice of Change in Water Rights Ownership*, with accompanying application fee, will be filed T.J. Budge on behalf of Merrill Ranch Partnership, LLC ("Merrill").

In addition to changing the ownership of these water rights, there are a number of errors that need to be corrected. These errors appear to have occurred when the water rights were previously split. At that time, the rights were split 50/50 between the two owners. However, the deeds (attached to the *Notices*), as well as information in the water right backfiles, demonstrate that the water rights were not sold in equal portions. Rather, there was a 70/30 split. In addition, the place of use on some of the water rights is in error.

I have reviewed the available backfiles for the above water rights to see if there is any reason for the Department's 50/50 split of these water rights. I could not find anything to support this split. Interestingly, there are two letters (both attached) that discuss the proper 70/30 split of these water rights. One letter, dated June 18, 1990, and written by Gary Spackman, appears to be an analysis conducted prior to the original split. Mr. Spackman concluded that the rights should be split 70/30. A second letter, dated July 10, 1992, and written by Tim Luke, confirms that analysis. Notwithstanding this analysis, and the conclusion that the rights should be split 70/30, the rights were split 50/50.

The above water rights are now owned by Miller and Merrill. I have attached a spreadsheet that indicates how these water rights should have originally been split. Please note that the properties in Section 12, T13S, R38E should not be included on the water rights owned by Miller. The information on the attached spreadsheet is consistent with the deeds and the letters from the backfiles. It is also consistent with the historical (and current) distribution and use of these water rights.

If there are any questions regarding the Miller water rights, please feel free to give me a call at 208-733-0700. If there are any questions regarding the Merrill water rights, please give T.J. Budge a call at 208-232-6101.

Yours truly,


Paul L. Arrington

PLA/jf

Encs.