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Eastern Region

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January 15, 2011

James Cefalo
Idaho Dept. of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718

RE: *Withdrawal of Statutory Claim No. 13-7710*
Amended Application for Transfer No. 74658
Amended Application for Transfer No. 74659

Dear James:

I am writing in regard to pending water right transfer nos. 74658 and 74659. These transfers were filed as part of a land and water right transaction between Brad Smith and Charles Barlow.

Transfer nos. 74658 and 74659 are companion transfers. They were designed to swap water right no. 13-679 with water claim no. 13-7710. However, upon reviewing the chain of title for lands owned by Smith, I discovered that claim no. 13-7710 need not exist and that water right no. 13-679 should instead be swapped with water right no. 13-681A. Therefore, this letter is a formal request to withdraw statutory claim no. 13-7710 and to amend transfer nos. 74658 and 74659.

Since the Department's form *Application for Transfer of Water Right* has been overhauled since transfer nos. 74658 and 74659 were first submitted, I have used the Department's new transfer form to amend transfer nos. 74658 and 74659. The original and one copy of each amended transfer application is enclosed. Please process the originals and conform stamp and return the copies in the enclosed envelope. The enclosed applications are intended to supersede and replace the applications filed previously.

74658

James Cefalo
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Water right 13-681 was decreed to George Anderson and water right 13-679 was decreed to John Harrington in the case of *Utah Power & Light Co. v. Last Chance Canal Co.* (commonly known as the "Dietrich Decree). Water right 13-681 was subsequently split into water right numbers 13-681A (owned by Smith) and 13-681B (owned by Wheeler).

Attachment #2A and 2B to transfer no. 74658 is the chain of title tracing ownership of water right 13-681A from Anderson to Smith. *Attachment # 2A and 2B* to transfer no. 74659 is the chain of title tracing ownership of water right 13-679 from Harrington to Smith. Attached to this letter as is a map showing the places of use of water rights 13-681A and 13-679 as of 1999 at which time Brad Smith became the owner of both rights. In 2007, Smith conveyed water right 13-679 to Barlow while reserving water right 13-681A unto himself. A copy of that deed is also attached to this letter.

The purpose of the transfer nos. 74658 and 74659 is to accomplish the conveyance and retention of water right nos. 13-681A and 13-679 as specified in the deed from Smith to Barlow. Transfer no. 74659 seeks to change the place of use of water right 13-679 to the property that Barlow purchased from Smith. Transfer no. 74658 seeks to change the place of use of water right 13-681A from the property purchased by Barlow to the property retained by Smith that is being vacated by the transfer of water right 13-679. Thus, transfer nos. 74658 and 74659 seek to swap water right 13-679 with water right 13-681A.

I understand the fee to file these amended transfer applications is \$50; therefore, I have enclosed a check in that amount. Thanks for your attention to this matter. Please call me if you have any questions.

Best regards,



T. J. BUDGE

cc: Brad Smith

TJB:cr
Enclosures

74658