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WATER RESOURCES
WESTERN REGION

June 28, 2011

Kay Walker
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: SV Ranch LLC Permit and Transfer Applications
Project No. 730-04-2010

Dear Ms. Walker:

Thank you for your efforts so far on this complicated package. By this letter I am providing the additional information and clarifications requested in your letter of February 24, 2011. We have already spoken by telephone and resolved the minor issues regarding acreages, but I will reiterate those here for the sake of completeness.

Application for Transfer #1 North – 76738

✓ Water rights on this land currently allow 372 acres of irrigation. The present actual irrigation is 406.1 acres. Therefore, 34.1 acres must be transferred to this land to make up the shortfall. The PPU should agree with the government lot acreage of 508.4 acres, but the acre limit within the PPU should be 406.1 acres after the transfer.

Application for Transfer #2 South Snake – 76739

✓ I agree with your overlap analysis and the conclusion that the acreage limit from the Snake River rights is 2050.5 acres. After transfer of the 34.1 acres to the north area, there will be 2016.4 acres remaining with a 2178-acre PPU based on the government lot acreage.

Application for Transfer #3 Castle Creek – 76740

The concern here centers around potential administrative difficulties if the Castle Creek rights are allowed to be diverted from the Snake River pumping stations. Based on the telephone discussion held last week between you, Steve Lester, Jim Speck, and myself, additional information was gathered regarding the administration of water rights on Castle Creek and implications for this transfer. Mike Ihli is the current watermaster of District 57 and has extensive first-hand knowledge of water right administration on Castle Creek. A synopsis of the information is as follows:

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The stream is generally not administered. No user has a lockable headgate or a workable measuring device. There are no measuring devices in the stream channel. The watermaster generally does not actively regulate headgates, and typically functions only to resolve disputes or provide information to new landowners about their water rights.

The SV Ranch headgate is 1.5 miles downstream of the Highway 78 crossing. This headgate is shared by SV Ranch and Mike Ihli. The only other diversion downstream of this point serves Nick Nettleton. All of the major early-priority water rights are located upstream of the highway; therefore, whatever water is left at the two downstream diversions is simply the residual after the upstream users are satisfied and all of it is available for diversion at these two points.

The hydrology of Castle Creek is similar to other tributaries in the Owyhee area. During the runoff period there is generally more than enough water to fill all rights. As the hydrograph recedes, the upstream early rightholders reduce their diversions, sharing amongst themselves generally according to priority. There are times when these users take all of the water in the creek, resulting in a dry bed at Highway 78. However, the creek is a gaining reach from the highway to the river, i.e. it "remakes" itself, and there has never been a time in recent memory when the creek has been dry at the SV Ranch / Ihli headgate or Nettleton's headgate. There has always been enough water to satisfy the 1.1 cfs under the 1907 right now owned by SV Ranch. And, even if SV Ranch / Ihli take all they can at their headgate, there is enough leakage through the rock diversion and additional gain to the creek that all of Nettleton's Castle Creek rights can be satisfied.

Based on this information from the watermaster, it does not appear that leaving the SV Ranch Castle Creek water rights in the creek to be diverted from the Snake River would be difficult to administer nor would this cause injury to any Castle Creek rights or Snake River rights. Provided there is sufficient water at the SV Ranch Castle headgate to fill the 1907 right, and according to the watermaster this appears to be the case due to the gaining nature of the stream, then all of the Castle rights should be divertable from the Snake. Because the stream is gaining, an assessment for seepage losses does not appear to be warranted. Note that I am not considering SV Ranch's very late-priority rights (1969-1970 priorities), which would only be active during extremely high runoff when administration is not likely to be a concern. A further consideration is that IDWR has filed a petition for interim administration for Basin 02. If approved, which seems likely, there will be a

watermaster appointed who can serve to administer the diversion of these rights from the Snake River, should it become necessary.

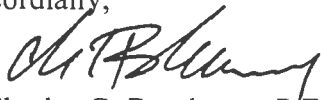
Relative to injury, Nettleton's Castle Creek water rights have priority dates from 1874 to 1940 and the sum of his diversion rates with priorities earlier than 12/10/1907 is 1.58 cfs. SV Ranch's proposal to divert the Castle Creek rights from the Snake River pump stations would not result in less water available for Nettleton. Relative to the upstream early-priority rightholders, there is no possibility of injury because their water supply would in no way be reduced; these users would continue to take everything they need, leaving the residual downstream of Highway 78.

Application for Permit – Castle Creek 57-11794

A concern was raised relative to the suitability of water right 57-235 for mitigation of the permit for the wetlands facilities. Based on the information and analysis provided above, it appears that this right is sufficiently reliable to provide the necessary mitigation. Ultimately, it is the applicant's risk in offering mitigation that the water right may not be available. If this is ever the case, water would not be divertable under permit 57-11794.

I would request that the Department continue processing these applications and advertise them at the earliest possible date. If there are any further questions or concerns, please do not hesitate to contact me.

Cordially,



Charles G. Brockway, P/E.

cc: Jim Speck
Gregory Vik
Rod Gonsales