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January 10, 2011

Idaho Department of Water Resources
322 East Front Street
Boise, Idaho 83702
287-4807

ATTN: Director of Idaho Department of Water Resources

Dear Mr. Spackman:

By way of introduction, I am the son of Vernon K. Smith and Victoria H. Smith, and as their son and in my capacity as an attorney representing the interests of my deceased father's estate and my mother, through her durable and irrevocable power of attorney, I undertake to seek the protection of the family interests on the matters of concern created by the large gravel pits that have been ongoing, and conditions appear to be worsening, and not getting better.

We own the large parcel of farmland property adjoining the westerly city limits of Garden City, consisting of 175-200 acres of land, and located five miles West of Boise. We farm irrigated crops on an annual basis, which historically has included rotation pasture, vegetables, beans, corn and wheat grains, and for the past 17 years has been dedicated to row crops exclusively, being beans, corn, wheat and vegetables. All of these row crops are water intense, requiring irrigation throughout the growing season, April through October. Historically, the water rights assigned to this property was approved and issued by the Department of Water Resources, which included irrigation water and delivery through both the Thurman Mill Ditch Company, as well as the rights established through appropriation and beneficial use of water diverted by our Parma water lifters out of both the Thurman Mill Ditch and the District Four Drain Ditch delivery systems that flow through our farmland at two locations.

What has been occurring over the past generation has been the gravel operations on properties owned by the Dalrymple Estate (or Trust) and DeChambeau Estate (or Trust). These lands are located to our West, and more recently over the past ten years, they have been extracting gravel from the accretion lands to our North. There has been a history of excavation of gravel on the Dalrymple property dating back to the late 1960's to early 1970's, and their excavations have extended Eastward onto portions of DeChambeau's property, and more recently, onto the accretion land, which DeChambeau

obtained by Judicial Decree in 1999, under the theory of adverse possession. This accretion land lies to the North of our deeded farmland, and through the extraction operations originally conducted by Mike's Sand and Gravel, and thereafter through their subsequent assignees, they have mined millions of yards of rock, sand and gravel materials, leaving in its wake a long, wide channel of open space where the extracted materials were removed. The consequence of this extraction has been to alter the static water table in the area, and to such an extent it eliminated our historic water table, compromising the efficiency of our irrigation cycles and now requiring continuous irrigation of our fields during the growing season, being 24 hour, 7 days a week of water introduction to our crops and fields, instead of what before had been a break between irrigation cycles of between ten days to two weeks.

The effect of this disturbance to our water table has resulted in between four and five times the water usage from that of our historic appropriation and use of water, but now we must consume that additional water in our irrigation program to prevent stress to the crops from the loss of our soil's water retention. If we before used the traditional minor's inch of water per acre, we are now requiring at least four to five minor's inches of water to raise our crops each season. We have lost our water table, and from all appearances since this intense gravel operation, it will be a permanent loss, so long as the deep channel remains and is allowed to drain our natural static water table. These gravel operations have either wound up their extraction left or will soon do so, and leave the area, and we will be required to consume this additional water to produce our standard rotation crops, under our family operations, unless the water table is restored. The former allocation or appropriation of one minor's inch of water per acre is wholly insufficient, and additional appropriations are in order. We may be the only serious farming operation drawing substantial water out of the Thurman Mill Ditch System and District Four Drain Ditch Facility, and for sure, it does appear we are the first farm operation on the delivery system to remove water from those delivery facilities. Fortunately, there are no other farmers ahead of us, and no other water sharing rotation programs that require us to share water flows with others during the irrigation season, as the situation was in the 1950's, 1960's and early 1970's when Louie Gee Truck Produce Farm and John Bell had operations. Fortunately, our access to water is without rotation, and without limitation, and we must irrigate our fields continuously and throughout the entire growing season, as we now have no ground pressure within the sandy loam soil to retain ground water. It drains immediately upon entry into the soil and our water table is now as far below the ground surface as the channel voids are deep.

We have been appropriating water from the Thurman Mill Ditch diversion and drain facilities as needed to produce our crops, and we have done this each year, and as the gravel extraction process has penetrated eastward into the accretion lands, and the channels dug so as to separate us from the water pressure created from the river to the North, our water table has disappeared entirely. Mr. DeChambeau has also dug (from North to South) along the West side of our property, for a distance over half way to Chinden Blvd., and the water pressure loss is now draining to the North and West.

Without the water table, our soil cannot hold water, and now drains from the subterraneous strata that before held water at a static level, due to the water pressure before affecting our water tables within the Boise River drainage system.

We have no desire to join this commercial gravel extraction activity devastating our Boise Valley farmland, and I have rejected offers to join in with this mining process, and have declined the opportunity to reap financial benefits from the process.

Our long range plans for the next 100 years will include various aspects of grain, vegetable and fruit production, and within the next generation may also introduce select varieties of grapes, creating our Riverside Farms vineyard, where we, in time, will specialize in select variety grape production, and eventually enter the process of wine production, with an on site winery and hospitality center that will boast an environmental beauty which in time may be seen as second to none.

Consequently, water is our life blood, and being historically a riparian irrigation process (river water source), we now find ourselves faced with enduring the inconvenience of round the clock irrigation and the expense of labor to keep the water flowing in ditches and constantly moving and setting siphon tubes throughout the irrigation season. We are further frustrated with the varying levels of management of the Thurman Mill Stream over the years, given the inconsistent efforts of personnel used to control the delivery system of water from the river diversion, and the limited ditch maintenance employed by the Thurman Mill personnel. No longer do they have farmers on its board, and instead appear to be comprised more recently of land developers, gravel oriented individuals, or residential property owners, who have little or no experience in the agricultural industry or the for consistency in water delivery.

With the allowance of the gravel pits in the area by our governmental agencies, resulting in the reduction of ground water and complete loss of our static water table, the need for water delivery and water quantities becomes even more critical, and there is no margin for moments of water disruption or jeopardy to the effective exercise of our water rights, especially as a result of this water table interference and loss caused by these gravel extraction operations.

I realize various agencies may have been involved in this gravel permitting and extraction process, including the Department of Water Resources, Department of Mines, Department of Lands, and possibly Ada County and Garden City, given the comprehensive concerns of their "area of impact", which may include the City of Boise and Eagle as well.

I trust these agencies were aware of what could become of the water table and the water level effects resulting from the removal of huge quantities of materials from continuous channels in one area, especially a long channel parallel to a river source of water, which channel now serves to cut off water pressure from the river to the lands to the south. These agencies have allowed the creation of these long and deep channels between farmland and the river, and these mining ventures have come into being with no contribution to the appearance of the area. I trust you will not leave me with the only option but to formulate an adverse relationship with those responsible for this situation.

I trust there exists a Plan of Reclamation approved by the governmental agencies that was in place before extraction was allowed to commence, together with posting of a payment and performance bond, to address damages, losses, and non-performance. I also trust the plan or bond will be triggered at some point in time to remedy the damages caused by this commercial extraction process, and will reverse our ground water loss in this area.

I also trust your agency did not adopt or embrace a philosophy of "wait and see" what happens to farmers and their water needs to be the official policy of the department, hoping the negative effects would not reach a level so serious as to damage land owners. Possibly these governmental agencies were banking on the mistaken belief financial greed of these adjacent land owners would cause them to join in the extraction process, gaining huge financial rewards, rather than preserve the beauty of the landscape and reduce the shrinking farmground from agricultural production.

I specifically request each agency provide me with a copy of what they believe is the established Plan of Reclamation in place to address this restoration, and I trust this reclamation process will be pursued in time to restore our water table. To allow these operators to abandon the area, leaving long channels fifty to sixty feet deep, will not provide any recourse to restore the water levels to our fields. If no plan exists, we are left with no choice but to seek a decree or adjudication of additional water rights, or at the very least to expand our water rights to meet our true water consumption needs. We may now also need to introduce water into the soil after fall planting, as the soil no longer has the water retention capacity. Without a water table, we must irrigate the planted seed to germinate, sprout and grow before winter hibernation takes effect. I welcome your analysis of the situation, and invite you to measure our consumption so as to confirm our lands will require the quantities of water per irrigation season, in order to properly grow crops and complete our fall planting mandates.

I have inquired as to the likely result should the de-watering pumps operating on the westerly portion of their extraction operation be terminated, and it will do nothing to restore our ground water levels, as the pumps are located too far to the West end of this long channel, and the natural grade and length will not allow the water to fill the channel to such a required depth necessary to restore our water table. It will drain to the West and return to the river before it has a chance to fill up the channel. Our static water table in years past was between 12" to 18" during the growing season, depending on the surface elevation where you dug for it.

Another concern has been the fire hazard this water loss has caused. You may be aware of the recent fire that ignited in this accretion area (North of our deeded property) owned by Mr. DeChambeau. Part of this accretion ground is where Mr. DeChambeau allowed the extraction process to be undertaken, having now extended this channel Eastward so as to consume another 20 to 30 acres. As a consequence of this extraction, what surface area remains within this accretion land has no groundwater table either, and cannot draw water to sustain the trees or shrubs, beyond the natural precipitation received in the spring and periodic rains in the summer. Consequently, during the summer months the ground and foliage are bone dry, creating the perfect environment for a late summer grass fire, which took place this August, 2010. When the fire broke out, it threatened our wheat crops, and it required us to prematurely begin the combine process in those Northerly fields, as we had to make access into the North fields to enable the fire trucks to reach the fire from the South side. We then had to disc the perimeter of the fields to prevent the fire from entering threatening the houses to the East, should it have been successful in entering our wheat fields, where it would rage out of control. I want to emphasize the fact it was sheer luck, the grace of God, and the combined efforts of Boise City, Eagle City, Ada County, and Meridian City fire districts, together with a BLM crawler tractor and a helicopter dropping water, together with several of our tractors, a

backhoe, a combine and other equipment to prevent the fire from spreading beyond the burn area into our wheat fields. That fire was so intense from fuel accumulated over the years from the dead grasses, foliage, brush, shrubs and trees that had died, due to lack of water, that it could not be extinguished. We contained it only, and it was watched by us and the fire personnel for several days.

The fire department now insists someone needs to provide access to this area; however, to date Mr. DeChambeau has not done that. We have no obligation to do that for him, as the accretion land belongs to Mr. DeChambeau, and he alone should endure the burden of providing access through and along his property interests. Furthermore, the fire department personnel contends this area is an annual threat, as the grasses and foliage will grow each spring and become ideal fuel for summer, and now, with the introduction of the bike path or greenbelt walkway as is proposed by Garden City, more people yet will be in this remote area, and once Garden City installs a walkway bridge across the Boise River to connect onto this unpaved bike path along this "sportsman's access" to the Boise River, it will become even more of a fire hazard. With more people you will have more likelihood of cigarettes, matches, glass containers thrown about, and the increasing potential of fire. This dryness is caused from the loss of the water table, and if the water table is restored, as it was before, the plant growth will have a source of water to prevent the dryness.

At one time, irrigation water flowed into and through much of the area by way of a lateral ditch that irrigated the Northern fields of the Dalrymple property, and it traversed a portion of this accretion ground which provided water from the Boise River, and that water, together with the water table, helped to preserve the green, lush environment it used to be in years past. The gravel extraction process has removed both the ditch flow and the water table, and the benefits of that irrigation which took place along that lateral. All sources of water introduction to the area have been deliberately eliminated, as the gravel operators wanted to eliminate all water in the area to minimize their de-watering requirements in that channel. They do not want to operate equipment in a wet or flooded environment. Clearly, the elimination of the water sources and the elimination of the water table has benefitted the gravel extraction operation, but has only served to create this intense fire hazard and complete loss of our static water table.

This accretion ground should either be restored to a lush foliage as it historically was, or reclaimed for farming operations, which I would do if we had title to the land. It could be cleared, leveled, and farmed annually, and with seasonal irrigation, there will be a much reduced fire potential. It could likely be irrigated (once the channel was reclaimed), with no greater quantity of water than what before was distributed through the lateral to the Dalrymple farmland. If we owned that accretion ground, we would restore it and make it farmland, and eliminate the fire hazard and undertake to fill the channels and restore our water table. This is a great concern to the fire department. I trust you will speak to Mr. DeChambeau about how he wants to address these issues of water levels, access, fire control and reclamation, so something constructive can be accomplished without need to further irritate or develop a contentious relationship with any of these interested landowners or entrepreneurs.

Once again, I trust you will provide me with the Reclamation Plan, force its implementation in a manner that will restore our water rights, or cause to be issued

immediately the expanded water right to us to provide the assurance of our priority and water usage to properly irrigate this land.

I await your response and until then until then, I remain,

Yours very truly,



Vernon K. Smith

VKS/vls

Cc: Garden City Council
Department of Lands
Department of Mines
North Ada County Fire Department
Boise City Fire Department
Eagle City Fire Department
Meridian City Fire Department

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Fax

To: Gary Spackman From: Victoria Smith
Fax: 281-6700 Pages: 4
Phone: _____ Date: 1/10/2011
Re: Vernon K Smith CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Original by U.S. Mail

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Reclamation Plan

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