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MAY 12 2009
Department of Water Resources

May 8, 2009

John and Debbie Harrington
54 Wagon Springs Road
Garden Valley, ID 83622

Dear John and Debbie,

This is in response to your letter dated September 9, 2009, regarding certain water rights and the easement to access those rights that encumbers our property. While we not in a position to discuss the existence of the water rights, we believe there is a clear restriction of the access to those rights the under existing easement on our property.

The easement that exists on our property pertains to certain access to irrigation water from the Middle Fork of the Payette River. This easement was recorded June 22, 1975.

Generally stated, an easement is a property right that grants an adjacent land a right to use the other property for a stated purpose. While most easements attach to the property (as opposed to a particular person), such easements are nevertheless limited to the particular stated purpose.

The limited use in the easement that encumbers our property, as stated in our Warranty Deed, is outlined below:

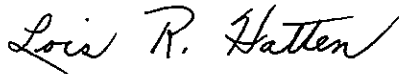
... AN EASEMENT FOR THE LOCATIONS, USES AND SERVICE OF THE IRRIGATION SYSTEM, AS IS NOW SITUATED, ... (*Emphasis Added*).

Significant to this, it is our understanding that the irrigation system "as [was] situated" when the easement was established consisted of a single, 1 1/2 horsepower, pump to draw water and a 1 1/2 inch diameter pressure pipe for water conveyance. That irrigation system is the one to which we bargained for when we purchased our property and the one to which we are legally bound to permit "locations, uses and services to." Simply stated, the installation of additional pumps and/or reconfiguration of pipes on our property to accommodate changes in the irrigation system as was then situated is outside the scope of the easement that encumbers our property.

In summary, the changes you suggest are additional encumbrances on our property. Such changes are outside the scope of the existing easement that covers the irrigation system as it was "situated" when the easement was established. Because the suggested changes would further diminish the enjoyment and value of our property, we are unable to accommodate your request for access.

I hope this information is useful.

Best Regards,



Lois R. Hatten

cc: Dave Tuthill, Director, Department of Water Resources
Marvin Hill
John Foote