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September 17, 2008

Jonie Barg
Idaho Department of Water Resources
900 N. Skyline Dr., Ste. A
Idaho Falls, ID 83402

RECEIVED
SEP 18 2008
Department of Water Resources
Eastern Region

RE: Notice of Change of Water Right Ownership - Water Right No. 25-10023
Kirk Burns & Linda Szimhardt

Dear Jonie:

This letter is in response to your letter dated August 15, 2008, wherein you requested additional information with regards to the actual point of diversion for Water Right no. 25-10023. After visiting with my clients on this matter, it appears there was an error with this particular water right. As indicated in the map I submitted to you with the Notice of Change of Water Right Ownership, the point of diversion is in the SWNW, not in the NWNW. As this water right has been partially decreed, it may be necessary to set it aside. However, it seems that it is possible to have the point of diversion changed because it appears to have been a clear clerical error. You will note in the Water Right Report that it lists the parcel number to which the water right is appurtenant to, which is Parcel No. RP01N38E063965A. In one of the maps we submitted to you with the Notice of Change of Water Right Ownership, you can see that this Parcel Number is Tract No.1, which is a 0.78 acre tract on the map. Thus, it appears that the water right correctly reflects the parcel number, but does not accurately reflect the point of diversion and place of use. It appears that the first "NW" listed in the NWNW quarter should be a "SW", and it is a clerical error. Since the water right parcel is specifically included in the conditions, we believe that the water right could be changed as necessary in the ownership change to reflect the actual point of diversion. Otherwise, the point of diversion will be on another person's property, which we have never owned.

Please let us know if the point of diversion can be changed administratively. As stated above, it appears that there was an error in the description of the point of diversion. If other

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action is to be taken, please instruct us how you would like us to move forward. We very much appreciate your assistance in this matter.

Best Regards,

A handwritten signature in blue ink, reading "Robert L. Harris". The signature is written in a cursive style with a large, stylized "H".

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

c: Kirk & Linda Burns

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