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October 16, 2007

RECEIVED

OCT 17 2007

WATER RESOURCES
WESTERN REGION

Steve Lester
Water Rights Supervisor
Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Water Right 65-4002X – Bill and Shirleane Abbott

Dear Steve:

Bill and Shirleane Abbott have provided me your letter to them of September 4, 2007. I have done some investigation and have some preliminary questions that would be best handled with a letter outlining what I determined in my investigation. The first issue that you raised is that the Water Right No. 65-4002X is in the name of Warm Springs Greenhouse and that you did not have sufficient information to determine how an agreement by Lee and Jan Ward to sell a portion of the water right to Bill and Shirleane Abbott was consistent with the name of the water right being in the Warm Springs Greenhouse Company.

Going through the back files of this water right indicates the following: On August 11, 1995, Warm Springs Greenhouse Company changed the ownership of the Water Right to Warm Springs Greenhouse, Inc. That was accomplished by Earle Ward, the owner of both of these companies. Then the Department's record show that on May 29, 1997, the Department received a Notice of Change of Ownership from Warm Springs Greenhouse, Inc. to Earle Ward. The records also show an address change for Mr. Ward in 2000. Then in March of 2003, the amended partial decree was issued decreeing Water Right No. 65-4002X in the name of Earle Ward, not Warm Springs Greenhouse. The decree is not in the name of Warm Springs Greenhouse Company. In May of 2007, deeds were filed with the Department showing a change of ownership from Earle Ward, who was since deceased, to Leigh and Jan Ward. On June 11, 2007, the Department sent a letter acknowledging the change of ownership to Leigh and Jan Ward, for Water Right No. 65-4002X.

Leigh and Jan Ward have subsequently conveyed a portion of Water Right 65-4002X to Bill and Shirleane Abbott in the amount of 0.015 cfs. The records that I examined in the Department's back file appear to show sufficient documentation to establish that the current

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owners of Water Right No. 65-4002X are to Leigh and Jan Ward, rather than Warm Springs Greenhouse. Thus, Leigh and Jan Ward had the authority as owners of that Right to convey a portion of it to the Abbotts.

If I misunderstood any of the records in the Department's files, please let me know and we will see what we need to do to sort out these ownership documents.

Once we sort out the ownership interest, the Abbotts will be filing an Application for a Transfer to split and change the portion of the Right. In your letter to the Abbotts, you suggest that it might be necessary for the Wards to stop heating a home on their property in order for the Abbotts to be able to use the water on theirs. I understand your concern about expansion of use of the Right. However, the Ward's Right, as I understand it, is more than simply heating a home. It is also for domestic and irrigation purposes as well as heating of greenhouses, at least under the original Right. My suggestion of the way to ensure that there is no expansion of the Right would be to require the Abbotts to install a measuring device for their Water Right when it leaves Ward's pipeline. Perhaps the Department could also require one of the Wards where they divert from the stream, if one is not there already. That way, the Department will know that there has been no expansion beyond the decreed Rights.

After you have had a chance to consider that information, please let me know what we need to do to get this transfer complete.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in dark ink, appearing to read 'Albert P. Barker', is written over the printed name.

Albert P. Barker

APB/se

cc: Bill and Shirleane Abbott