



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 7, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

KERMIT AND JOANA WIGGINS
C/O LARY WALKER
WALKER LAW OFFICE
PO BOX 828
WEISER ID 83672

RE: NOTICE OF ERROR RESPONSES

Ladies and Gentlemen:

I was asked to review the Snake River Basin Adjudication (SRBA) recommendations for water rights 67-4542, 67-14585, 67-14587, and 67-14591. The reasoning behind my review of the file was to get a new opinion on the existing information. Mr. Wiggins has worked extensively with Craig Saxton and John Westra on these claims. I have discussed these claims with both Mr. Westra and Mr. Saxton, and have determined that they were recommended correctly. I will discuss my conclusions for the two sets of circumstances.

67-4542:

The notice of error submitted that this claim should have been recommended for 1.80 cfs. The original claim was filed for 40 acres at an inch or 0.02 cfs per acre for a total of 0.80 cfs. The aerial photography used to determine the actual acres irrigated show that maximum possible acres to have been irrigated since 1987 was 32 acres. My review of the maps reveals that the granting the 32 acres of irrigation was very generous. The 32 acres were used to determine the flow rate of this right by multiplying those acres by the 0.02 cfs for a total of 0.64 cfs. This is the maximum allowable under Idaho Department of Water Resources (IDWR) standards. Your original claim requested an inch per acre for 40 acres, so the amount recommended reflects the amount originally claimed under this right. Additional information would be required to show why more water would be needed to irrigate this ground. Since no additional information was received, IDWR cannot recommend a higher diversion rate than what was recommended.

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Wiggins
12/12/2006

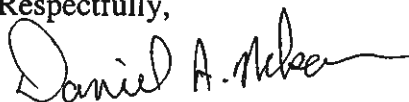
67-14585, 67-14587, and 67-14591:

The notice of error for all three of these rights state that you withheld the water rights during the sell of the property under these rights to Brett Newbold. I have reviewed the change of ownership information submitted by Mr. Newbold, the transfer submitted to the Western Region office of IDWR in 2006 that has yet to be processed, and spoken to both John Westra and Craig Saxton on this issue. There is nothing in the documentation supplied by you or Mr. Newbold that suggests that the water rights were withheld in the sale of the property. Mr. Westra and Mr. Saxton have both stated that they believe the ownership information is correctly represented in the recommendation. The new information supplied in the new transfer you referred to in your notice of error is a Irrigation Pipeline Agreement, that states "...Brett Newbold purchased the Farn's property from Wiggins, including all water rights and the right to use Pipeline No. 1 and Pipeline No. 2." The Warranty Deed supplied in Mr. Newbold's change of ownership specifically states that "Together with all water, water rights, ditches and ditch rights appurtenant thereto and in anywise belonging." Therefore, I agree with the splits made on the current recommendations.

In conclusion, I have determined that the above claims were recommended correctly per the information we currently have available to our office. In order for our office to recommend water right 67-4542 any differently, you will need to object to the recommendation in the SRBA court and provide adequate information showing that there is need for more water than is allowed under the IDWR standard of an inch of water per acre. The only way to change water rights 67-14585, 67-14587, and 67-14591 would be provide a corrected warranty deed or other legally binding document that shows that these water rights were withheld during sale of the property, or have since been deeded back to you by Mr. Newbold. All of the ownership documentation you or Mr. Newbold have supplied clearly shows Mr. Newbold as the owner of those rights. The ownership issues can best resolved by objecting to the current recommendations, and resolving the ownership issues in the SRBA court.

If you have any questions or concerns please contact me at the above address.

Respectfully,



Daniel A. Nelson
Sr. Water Right Agent

WARRANTY DEED

For Value Received

KERMIT L. WIGGINS AND JOANA R. WIGGINS, husband and wife

The grantors, do hereby grant, bargain, sell and convey unto

BRETT NEWBOLD, a single person

the grantee, whose current address is

3471 RUSH CREEK ROAD, WEISER, ID 83672

the following described premises, in WASHINGTON

County Idaho, to-wit:

IN TOWNSHIP 15 NORTH, RANGE 3 WEST, BOISE MERIDIAN, WASHINGTON COUNTY, IDAHO:

SECTION 3: SE~~X~~SE~~X~~, NW~~X~~SE~~X~~ SAVE AND EXCEPT THE FOLLOWING:

Commencing at the Southwest corner of the NW~~X~~SE~~X~~ of Sec.3, Twp.15N., R.3.W., B.M.,

Thence North identical with the West line of said NW~~X~~SE~~X~~ to the Northwest corner thereof;

thence East a distance of 200 feet, more or less, to the West boundary of the County Road right-of-way;

thence Southwesterly along said boundary to where the same intersects the South line of said NW~~X~~SE~~X~~;

thence West to the point and place of beginning.

SECTION 10: NE~~X~~NE~~X~~.

SUBJECT TO County Road along the West boundary.

GRANTOR RESERVES INGRESS-EGRESS TO MAINTAIN EXISTING PIPELINE.

Together with all water, water rights, ditches and ditch rights appurtenant thereto and in anyway belonging.

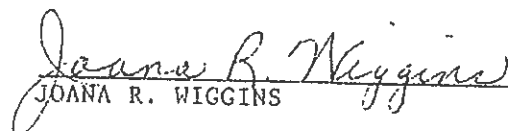
Subject to all valid outstanding reservations, easements, rights-of-way, restrictions, dedications, mineral leases, mineral reservations and mineral conveyances of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee his heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that they are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: JUNE 3, 1999


KERMIT L. WIGGINS


JOANA R. WIGGINS

STATE OF IDAHO, COUNTY OF WASHINGTON
On this 3rd day of JUNE, 1999,
before me, a notary public in and for the said State, personally
appeared

STATE OF IDAHO, COUNTY OF
I hereby certify that this Instrument was filed for record at the
request of

INSTRUM