

Gary D. Slette
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ISB #3198
r:\m\gds\Christianson\status report

RECEIVED
JAN 06 2009
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Attorney for the Applicants

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 71-07170 IN THE) **APPLICANTS' STATUS REPORT**
NAME OF JON & WEI CHRISTIANSON) **REGARDING PROCESSING**
)
)
)

COME NOW the Applicants, Jon & Wei Christianson, by and through their undersigned attorney of record, and pursuant to the Department's Order dated June 17, 2008, provide the following information relative to issues raised by the Sawtooth National Forest.

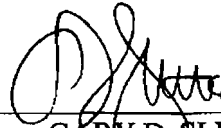
Representatives of the Sawtooth National Forest have questioned the rights of the Applicants to divert water into the ditch which is proposed to convey the water that is the subject of this application. The Christiansons and their attorney have had meetings and/or phone conversations with Merrill Cazier and Sara Baldwin of the United States Forest Service relative to this matter. Consistent with the advice and suggestions of U.S. Forest Service representatives, the Christianson have asserted a ditch right pursuant to R.S. 2339. In his email attached hereto as Exhibit "A", and by this reference incorporated herein, Merrill Cazier stated:

Because the Christiansons have asserted under RS 2339, the burden is on the FS to process this assertion. The process is now for them to provide the FS with documentation that the ditch predates the reservation date and other information. Until we have made a determination, we treat the assertion as though there is a right of way.

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2
3 Until such time as the United States Forest Service has ascertained the propriety of the
4 Christiansons' assertion, the Christiansons are unable to proceed with the application before the
5 IDWR. The Applicants have met on-site with Mr. Cazier and are awaiting a response from a
6 recent email inquiry regarding the status of the R.S. 2339 determination. Any new information
7 obtained from the United States Forest Service will be promptly tendered to the Idaho Department
8 of Water Resources.

9 DATED this 16th day of December, 2008.

10 ROBERTSON & SLETTE, PLLC

11 By: 
12 GARY D. SLETTE

13 CERTIFICATE OF MAILING

14 I hereby certify that on this 16th day of December, 2008, I served a copy of the foregoing
15 instrument to the following in the manner indicated:
16

17 Allen D. Merritt
18 IDWR - Southern Region
19 1341 Fillmore St - Ste. 200
20 Twin Falls, ID 83301-3380
21 Via Facsimile: 208-736-3037

22 
23 Gary D. Slette
24
25
26

Gary Slette

From: Stacey A Clark [staceyclark@fs.fed.us]
Sent: Friday, May 23, 2008 9:31 AM
To: Gary Slette
Subject: Fw: Sawtooth Springs -- Idaho

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Merrill Cazier just called me and asked me to forward this on to you.
----- Forwarded by Stacey A Clark/R4/USDAFS on 05/23/2008 10:28 AM -----

Merrill D
Cazier/R4/USDAFS

05/22/2008 02:21
PM

To
Sara E Baldwin/R4/USDAFS@FSNOTES,
Stacey A Clark/R4/USDAFS@FSNOTES
cc

Subject
Fw: Sawtooth Springs -- Idaho

Sara,
If this paragraph is agreeable to you please forward it to Mr. Slette.

Because the Christiansons have asserted under RS 2339, the burden is on the FS to process this assertion. The process is now for them to provide the FS with documentation that the ditch predates the reservation date and other information. Until we have made a determination, we treat the assertion as though there is a right of way. That is, they can maintain the ditches in the historic manor. What has been done in the past will be allowed during the review. They are not permitted to make any improvements to ditch or within the r-o-w or work within the natural stream bed.

Merrill Cazier, Land Surveyor
mdcazier@fs.fed.us
Office 801-625-5488
Cell 801-791-5142
Fax 801-625-5521

324 25th Street
Ogden, UT 84401

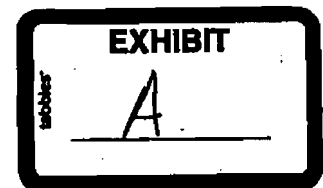
"Nothing in life is to be feared. It is only to be understood." Marie Curie 1867-1934
----- Forwarded by Merrill D Cazier/R4/USDAFS on 05/22/2008 01:49 PM -----

"Gary Slette"
<gslette@rsidahol
aw.com>

05/22/2008 09:51
AM

"Merrill D Cazier"
<mdcazier@fs.fed.us>

To
cc
Subject
FW: Sawtooth Springs -- Idaho



Hi Merrill,

My clients, the , assert a right of way for the two irrigation ditches that serve their property in the Stanley Basin in Idaho. This assertion is made pursuant to either the 1866 Mining Law or pursuant to RS 2339. I am attaching copies of the decreed water rights for their property as were confirmed by the State of Idaho in the Snake River Basin Adjudication. Each of the records from the Idaho Department of Water Resources contains a description of the amount of water decreed, the point of diversion of the water, its priority, and the place of use for the water. All rights are for irrigation of the Christianson property. The first three (3) rights pertain to Fourth of July Creek as the source, and the last one pertains to the diversion on the Salmon River.

Please advise me if you need any additional information, and I will be happy to try and provide it to you. If you have any questions, please feel free to contact me at 208 933 0700.

Best regards,

Gary Slette

Merrill,

I thought I might as well forward this email to you since it says it better than if I tried to say it to you on the phone!!

Please advise if you will contact Sara Baldwin or Stacey Clark at the SNRA regarding cleaning of the ditches.

Thanks again for your help.

Gary

-----Original Message-----

From: Christianson, Jon L [mailto:Jon.Christianson@skadden.com]

Sent: Thursday, May 22, 2008 2:16 AM

To: Gary Slette

Cc: Christianson, Jon L (BEI)

Subject: FW: Sawtooth Springs -- Idaho

Gary, while my salmon river rights have a priority of 1959 and Hans Carstensen's have a priority of 1933, there are water rights with numbers 71-2004 A & B that have priority rights of 1909. It is small (0.14 cfs), but its point of diversion is the same and uses the same ditch for delivery. I think that once the other rights came into existence, the ditch was enlarged but not otherwise changed. But the original ditch must have been there since 1909 (ie before the applicable 1928 date). Is this something that you should have a conversation with Merrill on?

Also, can you confirm with him that he will call Sarah Baldwin before Saturday to suggest that she let us do the ditch cleaning?

-----Original Message-----

From: Merrill D Cazier [mailto:mdcazier@fs.fed.us]

Sent: Wednesday, May 21, 2008 11:58 PM

To: Jon L Christianson

Cc: 'Gary Slette'; Christianson, Jon L (BEI)

Subject: Re: Sawtooth Springs -- Idaho

Jon,
The west 1/2 sec. 8, T 8 N, R 14 E became National Forest System Land
(NFSL) on April 10, 1928.
The east 1/2 became part of the SNRA Nov. 15, 1974

Merrill Cazier, Land Surveyor
mdcazier@fs.fed.us
Office 801-625-5488
Cell 801-791-5142
Fax 801-625-5521

324 25th Street
Ogden, UT 84401

"Nothing in life is to be feared. It is only to be understood." Marie Curie 1867-1934

"Jon L
Christianson"
<jonchris@public3
To .bta.net.cn> <mdcazier@fs.fed.us>

cc 05/21/2008 07:45 "'Gary Slette'"
AM <gslette@rsidaholaw.com>,
"'Christianson, Jon'"
<JONCHRIS@skadden.com>

Subject Sawtooth Springs -- Idaho.

Mr. Cazier,

My name is Jon Christianson. I am the owner of the property on which run the ditches that Gary Slette has been discussing with you. As he has requested, I have used Google Earth to locate the approximate location of the beginning of each of the two ditches. The first comes off 4th of July Creek at approximately 44 degrees 1 minute 47 seconds North; 114 degrees, 49 minutes, 43 seconds West. It runs west and then turns north along the highway

whereup it enters my neighbor's land and then my property.

The other ditch comes off the Salmon River at approximately 44 degrees 2 minutes 4 seconds North; 114 degrees, 50 minutes, 3 seconds West. It runs north for a short distance before it enters my property then turns east and runs under the highway and continues east until it turns north north west and exits my property behind two other homes.

I will call you in a little while to confirm that you have received this email and to see if there is anything else that I can provide. Thank you very much for your assistance.