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DEPARTMENT OF
WATER RESOURCES

June 3, 2008

Mr. Shelley Keen
Idaho Department of Water Resources
322 E. Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Hanley Dawson – potential groundwater mitigation plan
Project No. 1016-01-2007

Dear Shelley:

Pursuant to your recommendation in our recent telephone call, I am requesting a written response from IDWR on the issues we discussed. Mr. Dawson owns surface water right 37-276F and groundwater right 37-8574. Both rights are appurtenant to the same land, approximately 6.5 acres located on the Big Wood River about 7 miles north of Ketchum. All irrigation water is drawn from the existing well. Mr. Dawson wishes to continue this practice, but also wishes to comply with the general rule of "surface water first" and to protect the surface right from forfeiture due to non-use.

An application to transfer the surface water to the groundwater source is pending, but has been held up due to the hydrologic requirement that 50% of the groundwater pumping must be realized in the river within 24 hours. My initial analyses indicate that this criterion cannot be met with the existing well. Therefore, in lieu of a direct surface-to-groundwater transfer, we wish to explore the possibility of using the surface water right to mitigate for the existing groundwater right, where the mitigation would simply be to leave the water right in the river. A transfer of the surface right from "irrigation" to "mitigation" would be used to accomplish this. Based on the meeting on 5/7/08 with you and the IDWR regional staff, it is my understanding that the "50% in 24 hours" criteria does not apply to mitigation plans, and therefore this approach may be feasible. This structure is similar to the plan approved recently for a new permit acquired by the Blaine County School District for the Wood River Middle School.

In the vicinity of the Dawson property, the hydrologic connection between the aquifer and the river is extremely close – much closer than it is in the vicinity of the Wood River Middle School – and there are no diversions for several miles downstream until just north of Ketchum.

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With the aforesaid as background, I would request a written response from IDWR in answer to the following questions:

1. Assuming the hydrology is acceptable, can IDWR approve a mitigation plan which proposes to mitigate for an existing groundwater right rather than for a new permit?
2. If such a plan were approved, would protection from forfeiture of the surface right still be achieved under 42-223(10)?

Thank you for your review of this matter, and please do not hesitate to call if you have any questions.

Cordially,


Charles G. Brockway, P.E.

Cc: Hanley Dawson
Allen Merritt – IDWR Southern