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DEPT. OF WATER RESOURCES
SOUTHERN REGION

COPY

December 7, 2007

Jane Kollmeyer
USDA – Forest Service
2647 Kimberly Road East
Twin Falls, ID 83301

RE: Christianson Application for Water Permit No. 71-7170

Dear Jane:

It was nice to speak with you yesterday after playing phone tag for a couple of weeks. As we discussed, the irrigation ditch that delivers water rights belonging to my client, as well as others, has historically been in place since at least the 1920's. I appreciate your willingness and agreement to furnish me copies of the special use authorization that was granted to the other landowners on the ditch many years ago, all as more specifically referenced in paragraph 2 of your letter. In addition to receiving those authorizations, I would also like to review the "applications for conditional easements" referenced in that same paragraph that pertain to this ditch.

The application that is pending to be processed was filed many years ago, and was the subject of a moratorium. You have asked for my client to investigate other means to secure this water "such as drilling a well, pumping from the river, and developing another source of water", all of which are physically impossible given the processing of this particular application. Because the historic ditch has served for decades to accomplish the very purpose of water delivery that we seek pursuant to this application, I am hopeful that a common sense approach would lead the Forest Service to conclude that a secondary point of diversion would not be in anyone's best interest.

I am aware, as you mentioned, that the property proposed for irrigation is encumbered by a scenic easement. In addition, I have reviewed 36 C.F.R. 292.16(g)(1) regarding irrigation facilities and 36 C.F.R. 292.16(g)(11) regarding agricultural practices. You may be assured that the Christiansons are aware of the existence of that easement, and intend to fully comply with the agricultural components in furtherance of the exercise of their water rights.

I am concerned about the statements you made in the second to last paragraph of your letter somehow asserting an alleged failure to advise you of the water right application. Certainly, when I spoke with Stacy Clark after you and I spoke last evening, Stacy was well aware of the existence of this application. Furthermore, in the IDWR's correspondence dated November 17, 2006, the two agencies identified for contact were the Idaho Department of Fish and Game, and the Idaho

Division of Environmental Quality. In addition, with regard to the local public interest criteria, any irrigation district or canal company within which the proposed project is located were also included as other entities to be considered. I received comments from the Idaho Department of Fish and Game on December 5, 2006, in which Regional Supervisor James Lukens stated:

As described in the application, it appears that the withdrawal will be from the existing S-42 diversion. This ditch already has a fish screen, the additional withdrawal will not negatively impact fish or aquatic resources and we do not oppose permit issuance.

The Department of Environmental Quality responded on December 27, 2006. In part, Troy Saffle, the Regional Water Quality Manager, stated:

The water right applied for is not immediately adjacent to any impaired water bodies whose beneficial uses may be affected by flow alteration caused by your potential water right. . . . The Department does not have any additional comments at this time and believes this letter is sufficient to allow the Department of Water Resources to complete their review of your water rights application.

Once I have had an opportunity to review each and every special use authorization and/or applications for conditional easements as you have offered to provide me, we can better determine a course of action to address your concerns. In a telephone conversation with Corey Skinner of the IDWR yesterday, he confirmed the six-month extension in which to advance this matter through the Forest Service channels. I am confident that I can work with Stacey Clark in this regard, and am hopeful that a reasonable resolution will be obtained in light of the fact that the historic existing ditch will be the conveyance method for this and other water rights belonging to my clients.

If you have any questions or comments, please feel free to contact.

Yours truly,

A handwritten signature in black ink, appearing to read "G. Slette", with a stylized flourish at the end.

GARY D. SLETTE

GDS:rlm

cc: Jon & Wei Christianson
Corey Skinner – IDWR
Stacey Clark - SNRA

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