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WATER RESOURCES
WESTERN REGION

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February 21, 2008

HAND DELIVERED

Steve Lester
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

Re: Application No. 65-23245

Dear Steve:

On behalf of James W. and Mary B. Smith, I filed the above application for a groundwater right for irrigation and stock water. The point of diversion and place of use is adjacent to Squaw Creek in Gem County.

You might recall that I met with you last fall to discuss this application and another matter, an addition of a point of diversion on another right for the Smiths, right no. 65-03086.

Last fall Eric Herr received some complaints that the Smiths were using water from Squaw Creek as part of the irrigation district's water right on land that was outside the district and from a point of diversion which was not part of the irrigation district's decreed right. The particular point of diversion for the irrigation district's right is in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 26, T.11N., R.1E. The Smiths were pumping the water from Squaw Creek at a point in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35 of that same township and range and using the water on the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section of 35. So that there would not be a continuing concern for Mr. Herr, the Smiths stopped diverting the water.

As nearly as I can determine, the land which was being irrigated is within the irrigation district. At least this is what I conclude based upon the records I obtained off of your website. Admittedly, the map showing the irrigation district's place of use does not include the land. This is what Mr. Herr was basing his conclusion on. However, as I point out, I believe the decree lists this land within the irrigation district. Also, when I go into the file for water right 65-4056, I see a map delineating this

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same parcel of property as being included as irrigated land under right no. 65-2974, one of the irrigation district's rights.

To solve the problem, the Smiths filed a new application for a groundwater right to irrigate this land and filed an application to add a second point of diversion for right no. 65-03086, a transfer application. The application for transfer, no. 74411, is not a pressing issue. However, the application for the groundwater right is pressing. This is probably one of the best fields the Smiths have for irrigated land. We were hoping to get a permit issued so a well driller could drill the new well before the start of the irrigation season. When we talked, you thought it could be processed fairly quickly. However, in checking with some of your personnel, I was told that the application is "on hold."

I think there are some extenuating circumstances here, and it would be very much appreciated if you could find someone in the office who could look through the application, make sure it is complete and if so, start the publication.

Thank you for your help in this matter.

Very truly yours.

WESTBERG, McCABE & COLLINS, CTD.



William D. Collins

WDC/ml

cc James W. Smith