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Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
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DALE W. STORER
FREDERICK J. HAHN, III^{*}
KARL R. DECKER
SHAN B. PERRY
DEANNE CASPERSON^{*}
AMELIA A. SHEETS
ROBERT L. HARRIS

^{*}Also licensed in Wyoming

^{*}Also licensed in Missouri and Kansas

1000 RIVERWALK DRIVE, SUITE 200
P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

TELEPHONE (208) 523-0620
FACSIMILE (208) 523-9518
E-MAIL RHARRIS@HOLDENLEGAL.COM

Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Larry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

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SEP 17 2007

DEPARTMENT OF
WATER RESOURCES

Of Counsel
Fred J. Hahn
Marie T. Tyler

September 14, 2007

Gary Spackman
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

RE: Question Regarding Permissible Place of Use for Groundwater Rights

Dear Gary:

This letter is in regards to Water Right No. 27-7577, which is currently in the process of being licensed by the Department. I have been in contact with Aaron Marshall of your office concerning place of use issues regarding this particular license. Earlier this week, we had a meeting with Mr. Larry Hinderager, who reviewed the proposed place of use shapefile, and we concur with the Department's recommendation to have the areas depicted by the shapefile as the place of use developed under this particular water right.

We had a meeting with Ernie Carlsen in the Eastern Region office to discuss the place of use boundary, and in the course of that conversation, we raised the question of whether or not this water right could be licensed with a condition permitting its use within the service areas of the East Idaho, Corbett Slough, and Blackfoot Irrigation companies which divert water from Miner's Ditch. Miner's Ditch is simply a carrying ditch, which delivers water diverted pursuant to water rights held by the companies mentioned in the previous sentence. The City of Blackfoot applied for this right so that portions of Miner's Ditch could be filled in the City. The permit for this water right was issued in 1998, and condition 4 of that permit provides the following:

"Diversion of water under this right shall be used to supply shareholders of the East Idaho, Corbett Slough, and Blackfoot Irrigation canal companies diverting water from the Miner Ditch. Miner Ditch users will allow their

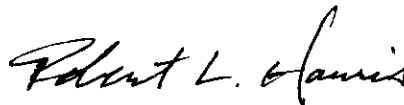
surface water shares to continue down the Snake River as mitigation to offset the use of groundwater under this right.”

Because this groundwater right is being mitigated with surface water held by the various companies mentioned above, it makes sense to us that the same flexibility afforded those surface water rights should be afforded this particular groundwater right. This would allow the water right to be used within the service areas of these companies. After visiting with Mr. Ernie Carlsen and Dave Carlson of the Eastern Region office, they recommended we send you a letter regarding this issue and receive an opinion as to whether it will be possible. We would appreciate a response to this question within the next thirty (30) days, as we wish to continue to move forward with the licensing. Mr. Aaron Marshall of your office has been extremely helpful in working through the licensing process, and we are providing a copy of this letter to him for his information.

In sume, the proposed place of use shapefile for this particular water right is acceptable to us as to the calculation of total acres developed. Once we receive a determination of whether or not this right could be used within the boundary of the various irrigation companies listed above, we could then move forward with the licensing. Until we receive that direction, we request that the licensing process be stayed until we have received the answer to our question.

If you have any questions or concerns regarding the foregoing, please let me know. We look forward to hearing from you.

Sincerely,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

c: Aaron Marshall
Shelley Keen
City of Blackfoot