



State of Idaho

DEPARTMENT OF WATER RESOURCES

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July 27, 2007

C. L. "BUICK" OTTIER
Governor

DAVID R. IUTHILL, JR.
Interim Director

VIA EMAIL

JON L CHRISTIANSON
FOUR TIMES SQUARE
NEW YORK CITY, NY 10036

RE: Water Use, Measurement, and Control in Water District No. 170.

Dear Mr. Christianson:

This letter is a follow-up to our phone conversation yesterday with Mr. Brockway, Mr. Slette, and Mr. Luke. As you know, the Idaho Department of Water Resources (IDWR) has received correspondence on your behalf from Mr. Brockway and Mr. Slette regarding the February 20, 2007 IDWR order requiring measuring devices and controlling works in Water District No. 170. I have visited your property twice and discussed your water usage with you, and with your brother-in-law. Based on our discussions, my observations of your property, and discussions I have had with other IDWR staff, additional water rights or changes to your existing water rights are needed to ensure that your water usage is protected. Until such changes are approved by IDWR, IDWR will suspend compliance with the February 20, 2007 order at the following diversions (refer to the accompanying map for locations): SPG8, SPG9, SPG10, SPG11, and WW1. The need for measurement and control at these diversions will be evaluated during and/or after the approval process.

I have attached a map showing your property, approximate locations of ditches, streams, legal points of diversion, and places of use for your water rights. The water right information is based on IDWR records, and the locations of ditches are based on observations made during my site visits. I included the map for your reference when considering how you plan to use your water and which permit or transfer activities you will need. Based on my observations, specific items that should be addressed by a transfer or new permit include:

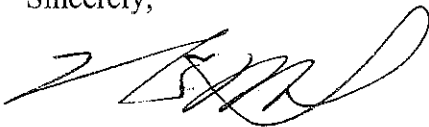
- Permit or transfer authorizing aesthetic use, diversion to storage, and aesthetic and/or recreation storage. A permit or transfer would protect your aesthetic stream in front of the house, the aesthetic and recreational use of the pond, and the storage in the pond during the non-irrigation season.

- The Snake River Basin Adjudication Partial Decree for water right 71-10107 appears to incorrectly list two points of diversion in the NWNWSW of Section 9 Township 8N, Range 14E. The two points appear to actually be located in the NWNESW of Section 9 Township 8N, Range 14E.
- Alter the place of use for water right 71-10107 to include the area southwest of the lower pond that is currently watered from the upper pond and pump system and may be watered by the ditch below SPG11. Alternatively, you might consider combining all of your places of use so you can legally irrigate any location on your property with water from the springs, Fourth of July Creek, or the Salmon River. The water right would still have a limit on the number of acres that can be irrigated under that right, but that number of acres can be anywhere on the property. This would provide some flexibility in how and where you water.

How or whether to measure your use will depend to some extent on what changes are made to your water rights. Although the goal is to obtain water rights that authorize the uses you make and/or would like to make of the water, you have some flexibility as to how those rights are defined. I've outlined some possibilities above, but I encourage you to discuss this with Mr. Brockway and perhaps contact a water rights agent at the IDWR Southern Regional Office to ensure your water rights will authorize your current and planned uses for the water.

If you have any further questions on this matter, please feel free to contact our office

Sincerely,



Nick Miller, P.E.
Water Distribution Section

Enclosures:

Map showing existing water rights – One page @ 11"x 17"

cc:

Gary D Slette – Robertson & Slette, P.L.L.C – 134 Third Ave. East, P.O. Box 1906, Twin Falls, ID 83303-1906
Charles G. Brockway – Brockway Engineering, P.L.L.C – 2016 North Washington St., Ste 4, Twin Falls, ID 83301

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