

June 29, 2006

Allen Merritt
Dept. of Water Resources
1341 Filmore St.
Suite 200
Twin Falls, ID 83301-3380

RECEIVED
JUL 03 2006
DEPT. OF WATER RESOURCES
SOUTHERN REGION

RE: Application #72-16692

Dear Allen,

I'm attempting to comply with your additional requests for the above application with the following:

Tom Curet from the IDFG came to French Creek and took some pictures and we discussed the property and the water. He will be writing a letter and will review other information they may have in his office.

Troy Saffle with the IDEQ requested information and maps which I sent to him and followed up with a phone call where he said he had enough information and would send you a letter.

Washington Mutual Bank is sending a letter to you stating I am financially viable. Although the diversion already exists and has been there for probably 100 years, I guess there may be some costs involved.

- C) In section 42-203A (5) (a) of the water rules on effecting existing waters rights:

There are two of us using the water from French Creek

1. Myself, with water right # 72-4161 A
2. John and Gwendolyn Moore # 72-4161 B

You have the maps for locations of diversions and water rights are used to water grass and alfalfa.

The restoration of old water right, which is the applied for new water right, has no effect on the existing water rights as it would be a junior or newer date right.

D) Water Supply:

This water right would restore water rights that serviced flat arable land that historically has been farmed but less than what was irrigated. As the flow rate varies from year to year, the amount used would be commensurate with the water right correlated with availability. Peak use would be May and June.

E) You have a copy of our deed and we haven't leased anything from anyone. I'm enclosing a copy of our easement with the BLM.

F) The point of diversion has been in existence probably for the past 100 years but I've contacted my bank and they consented to send you a letter stating my Financial viability.

G) I have contacted the IDFG and the IDEQ and they both have committed to send a letter. The diversion already exists and has been for many years.

Please let me know if there is anything else I need to do to expedite the approval of our application. Thanks for your help.

Sincerely,

A handwritten signature in black ink, appearing to read "Marshall Ogden", with a stylized, flowing script.

Marshall Ogden
HC 67 Box 550
Clayton, ID 83227

208 838-2964



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Challis Field Office
801 Blue Mountain Road
Challis, Idaho 83226
<http://www.id.blm.gov/offices/challis>



In Reply Refer To:
2800 (330)
IDI-33668

November 17, 2005

CERTIFIED MAIL 7005 1160 0000 1040 3930
RETURN RECEIPT REQUESTED

RECEIVED

JUL 03 2006

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Decision

Marshall & Jolene Ogden
HC 67, Box 550
Clayton, Idaho 83227

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Successor in Interest Recognized

Right-of-Way IDI-33668 was originally authorized on September 21, 2001, to Gerald & Kathryn Herrick, Carolyn Calkins, and Herman W. Pleus for a water pipeline located in T.11N., R.17E., section 32, NW¼ NE¼NE and section 29, SE¼SE¼, BM, Custer County, under the Act of July 26, 1866, ditches existing prior to the Federal Land Policy and Management Act of 1976.

On September 26, 2001, John M. and Gwendolyn L. Moore purchased the property belonging to Gerald and Kathryn Herrick. On July 15, 2005, Marshall and Jolene Ogden purchased the property belonging to Herman W. Pleus, and are now holders of the right-of-way along with John M. and Gwendolyn L. Moore, and Carolyn Calkins.

Therefore, Marshall and Jolene Ogden are hereby recognized as successors in interest to right-of-way IDI-33668

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If

an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulations 43 CFR 2801.10 or 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions regarding this decision, please contact Jan Parmenter at (208) 879-6247.

Sincerely,



David Rosenkrance
Field Manager

Enclosure
Form 1842-1