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43-0201

July 18, 1972

Herman E. Bedke
Attorney at Law
P. O. Box 249
Burley, Idaho 33318

Dear Herman:

I received your July 14th request for the temporary change in point of diversion and place of use of the 2.00 c.f.s. of water decreed to James F. McGill with a priority of April 1, 1872, which we discussed by telephone recently.

The distribution of water in a stream system is, as you know, made accordingly to priorities with the junior rights receiving water when the senior right is receiving its full entitlement or not using the water. If we allowed the senior rights to lease out their water right when it is not needed or cannot be used, we, in effect, deprive a junior appropriator of water.

Therefore, after reviewing your proposal, I must inform you that a temporary transfer such as you have requested cannot be allowed.

Very truly yours,

R. KEITH HIGGINSON
Director

RKH:ejw

cc: Watermaster District No. 43
Joe Hepworth
Malta, Idaho 83342

RECORDED & INDEXED

TEL. 678-2401

HERMAN E. BEDKE

ATTORNEY AT LAW
POST OFFICE BOX 249
BURLEY, IDAHO 83318

RECEIVED
JUL 17 1972
1416 OVERLAND

July 14, 1972

Department of Water Administration

Mr. Keith Higginson, Director
State of Idaho Department of Water Administration
Boise, Idaho

Dear Mr. Higginson,

Pursuant to our conversation this morning, I am making this formal application for a temporary change of point of diversion and temporary change of point of use. The following information is submitted:

I am leasing from Frank Olson lands including the following:

N $\frac{1}{2}$ SE $\frac{1}{4}$ and the E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 7, Township 15 South, Range 27, EBM,

which has a decreed right in Raft River with water priority of 1879 and 1882, which I have been using earlier this spring from the Point of diversion situated in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, Township 15 South, Range 26, EBM.

My neighbor, M. & V. Ranches, Inc., owns the water right decreed in the Albion Idaho Land Company vs. Jobe Adams, et al, to James F. McGill for 2.00 cfs with the priority of April 1, 1872, appurtenant to Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 5, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 6, Township 15 South, Range 27, EBM, with point of diversion situated in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, Township 15, Range 27, EBM.

I have leased from M. & V. Ranches, Inc., the 1872 water right for the remainder, only, of the 1972 irrigation season and wish to divert the same from Raft River, the point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 13, and use on the lands described above in said Section 7. I understand from the water master, Mr. Joseph Hepworth, that there is sufficient water in Raft River to fill the 1872 water rights.

M. & V. Ranches, Inc., have not been able to use any Raft River water on their land this year nor last year for the reason that the flood in spring of 1971 washed out the diversion

structures and they have been unable to make the repairs. It is for this reason that they have leased the water to me for the balance of this year.

We respectfully request that we be granted temporary change of point of diversion and temporary change of place of use on this 1872 water for the remainder of the 1972 irrigation season.

Yours truly,


Herman E. Bedke

HEB/pc