



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 7, 2004

Penny North Shaul
PIKE & SMITH, P.A.
151 N. Ridge Ave, Suite 210
Idaho Falls, ID 83403-2949

RE: PERMIT NO. 31-07338 – PAUL GUNDERSON

Dear Ms. Shaul:

This letter responds to your letter dated February 27, 2004 to Gary Spackman in connection with the above referenced matter. I apologize for the lateness of this letter, but activities with the legislature and the recent settlement agreement negotiations between the spring users and ground water pumpers in the Hagerman area of the ESPA have prevented an earlier response.

In your letter you propose mitigation to the Snake River calculated using the IDWR ground water transfer spread sheet ("spread sheet") to allow continued irrigation of 33 acres by Paul Gunderson ("Gunderson") under Permit No. 31-7338 ("permit"). You have proposed that a change to condition of approval 9 of the permit providing for mitigation would be the catalyst for withdrawal of Gunderson's protest against application for transfer no. 70627 ("transfer application") filed by Robert Bybee ("Bybee"). The department also ran the spread sheet to determine effects of the depletion to reaches of the Snake River

In order to mitigate prior water rights for the irrigation of the 33 acres, you will need to rent 1.6 acre feet of water each year for each of the 33 acres to be irrigated and provide evidence of the rental to the department. In terms of dollars using the 2003 rental rate, the annual rental cost would be about (33 acres) (1.6) (\$6.00) = \$317.

Please forward the withdrawal of the protest against application for transfer no. 70627 to my attention in order that I can make appropriate changes to condition of approval 9 on Permit No. 31-7338 in the name of Gunderson.

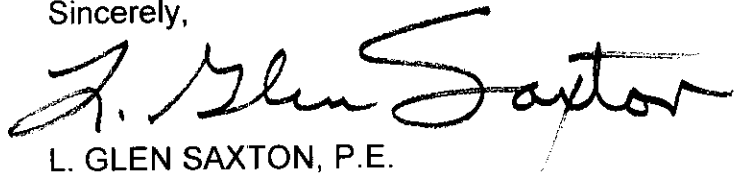
As the rights presently exist, Gunderson is not authorized to irrigate the 33 acres this year and the Bybee transfer application is on hold. If Gunderson irrigates the land

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without a water right for the use, Section 42-1701B, Idaho Code, provides that he will be subject to a penalty of \$300 per acre for irrigation of the 33 acres = \$9,900. The department does not want this matter to go that far and your client likely also does not want to get involved in Notice of Violation activity.

I will appreciate your prompt review of this matter due to the upcoming irrigation season and your response to me. If you have questions or would like to discuss this proposed resolution of the matter, I can be reached at (208) 327-7910.

Sincerely,

A handwritten signature in black ink, reading "L. Glen Saxton". The signature is fluid and cursive, with the first name "L." being small and the last name "Saxton" being larger and more prominent.

L. GLEN SAXTON, P.E.
Administrator
Water Management Division

c: Ron Carlson – IDWR
Gary Spackman – IDWR
Paul Gunderson
Robert Bybee