

## MEMORANDUM

**To:** Jeff Peppersack, Gary Spackman, Tim Luke (Files 2-2210, 2-2269, 2-2367)  
**From:** Cynthia Bridge Clark  
**Date:** May 21, 2004  
**Re:** Potential Illegal Irrigation of Land

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On May 5, 2004, Sid Wing notified me by telephone that Jack Post was irrigating a 160-acre field that was not covered by a water right. Mr. Wing owns the property north of the land being irrigated. He indicated that it was probably being irrigated with water provided by the South Elmore Irrigation Company (company) and has historically been irrigated every two or three years. Mr. Wing used to own land supplied by the company. He is also familiar with the US Bureau of Reclamation's (USBOR) rental program through the Water Supply Bank (bank). South Elmore Irrigation Company and Jack Post have participated in this program since it began in 2002.

The 160-acre field is located in the S $\frac{1}{2}$ NW and N $\frac{1}{2}$ SW of Section 6, T5S, R7E, B.M. According to available county tax lot information, the parcel is owned by Jack Post, and does not appear to be covered by a valid water right. Mr. Post also owns adjacent land to the west that is part of the South Elmore Irrigation Company (company), and is covered by water right 2-2269.

The company intends to lease water associated with approximately 4711.4 acres to the bank to be rented through the USBOR rental program. They are in the process signing a contractual agreement with the USBOR to idle land for the 2004 irrigation season. This contract will act as an application to lease a portion of the appurtenant rights to the bank, but has not yet been submitted to the Department of Water Resources (department) for processing. The intent of the rental program is to pay water users who divert water directly from the Snake River to idle lands that would otherwise be irrigated with Snake River water. The water is left in the river for flow augmentation purposes. The department will process the bank application, but will also enter into an agreement with the USBOR to monitor the fields associated with the program.

In accordance with the individual contracts with the USBOR and the leasing rules of the bank, the lessor agrees not to use the water associated with the right placed in the bank. Therefore, it may be necessary to establish whether the water applied to the field described above is water that should not have been diverted for irrigation purposes this year. Additionally, irrigation is not authorized on this field under a valid water right, and the owner is not renting water through the bank for use on the land.

I visited the field identified on May 7, 2004. The entire field had been tilled and prepared for farming, and was being irrigated with hand lines. Mr. Wing stated that Jack

Post had planted sugar beets, though there was not much growth on the field at the time of the visit. The mainline runs east west through the field, and though separated by a road, may be connected to a mainline through an adjacent field to the west. The fields to the west should be idled through the rental program this year. Photographs and GPS points were collected around the irrigated field. I also spoke with Steve Lester at the Western Regional Office prior to the field visit. He had not received any information about the specific field or water user.