

February 27, 2007

Nick Miller, Watermaster
Water District 170
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

WD 170
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DEPARTMENT OF
WATER RESOURCES



Dear Mr. Miller,

We have received IDWR's letter of February 20, 2007 regarding the Preliminary Order requiring measuring devices and head gates in Water District 170. We (Kenneth J. and Wendy A. Rodgers) are holders of water right 72-7455 which is listed on page 13 of Attachment B of the Preliminary Order. We believe this listing and subsequent inclusion of our point of diversion as subject to the Preliminary Order is in error. Our water use for irrigation and stockwater has been added together with the water use of our neighbors, David P. and Sandra S. Rosenkrance (water rights 72-7457 and 72-7458) for a cumulative total diversion rate of 0.24 cfs and 6.2 irrigated acres. It is correct that both of our points of diversion may have the same legal description, but we physically have different water intakes and irrigation pump systems separated by almost ¼ mile distance.

We irrigate approximately 2 acres with water right 72-7455 with less than 0.24 cfs rate of diversion from our irrigation system. This system has been inspected and water use verified by IDWR field personnel subsequent to our original filing for water use permit. Proof of beneficial use and diversion rate for our water right should be part of your Department records.

We hereby request our point of diversion for water right 72-7455 be exempt from the Preliminary and Final Order requiring measuring devices and head gates in Water District 170. Our water use is below the IDWR threshold listed in Item 2a, Page 4 of the Order for locations where cumulative rate of diversion exceeds 0.24 cfs, and/or the total number of acres irrigated exceeds five acres. Please advise us if this request is proper according to IDWR requirements and if the exemption is granted.

Sincerely,



Kenneth J. Rodgers
Wendy A. Rodgers

P.O. Box 659
Challis, ID 83226

cc: Dave & Sandy Rosenkrance

SCANNED
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