



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 3, 2005

BARRY T WILLIAMS
1277 MINK CREEK RD
ARBON ID 83212

Re: Your request for conjunctive management of surface water and ground water

Dear Mr. Williams:

This letter responds to your written letter, dated October 25, 2004, about depletions in Bannock Creek flows allegedly caused by ground water pumping near Bannock Creek.

You assert a direct hydraulic relationship between the ground water and surface water in the Bannock Creek drainage, and that pumping of ground water by Bill Curry causes Bannock Creek to dry up for between 1 ½ and 2 ½ miles. You also assert that the reduction of water flowing in Bannock Creek has reduced or eliminated surface water available to satisfy water right nos. 29-13528 and 29-10990.

Following your explanation of the facts, you state the following:

I have complained verbally to the Idaho Department of Water Resources and the Tribe for twelve years. I was told that once the adjudication process got to this stage, something could be done. There is no better testimony than seeing this situation in person. I have talked to Elise Teton with Tribal Water Resources about visiting this area. I would like for someone from the IDWR to attend.

I have talked to both well owners in the past but the wells are not going to be shut off until you enforce the law.

Your letter refers to a future meeting with "Elise Teton with Tribal Water Resources." If you want to arrange a meeting to discuss conjunctive management of water in the Bannock Creek drainage, a representative of the Idaho Department of Water Resources (IDWR) could attend. A tour of the area might be appropriate.

In addition to suggesting a future meeting, your letter refers to enforcement of the law and shutting off wells. IDWR is authorized to conjunctively administer the ground water and surface water in the Bannock Creek Drainage under IDWR's Conjunctive Management Rules. The ground water rights in the Bannock Creek Drainage are being decreed in the Snake River Basin Adjudication. Nonetheless, surface water and ground water rights in the Bannock Creek

Drainage have not yet been included in a water district. As a result, the procedures for seeking conjunctive administration of the ground water and surface water in the Bannock Creek Drainage are written in Rule 30 of IDWR's Conjunctive Management Rules. Rule 30 requires that you file a petition for conjunctive administration with IDWR. The petition should be in the form of a pleading described in IDWR's Rules of Procedure. The petition should contain the following:

- a. A description of the water rights of the petitioner including a listing of the decree, license, permit, claim or other documentation of such right, the water diversion and delivery system being used by petitioner and the beneficial use being made of the water.
- b. The names, addresses and description of the water rights of the ground water users (respondents) who are alleged to be causing material injury to the rights of the petitioner in so far as such information is known by the petitioner or can be reasonably determined by a search of public records.
- c. All information, measurements, data or study results available to the petitioner to support the claim of material injury.
- d. A description of the area having a common ground water supply within which petitioner desires junior priority ground water diversion and use to be regulated.

At the time you file the petition with IDWR, you must also "serve the petition upon all known respondents" as required by IDWR's Rules of Procedure.

The petition may seek the creation of a water district or the enlargement of an existing water district presently responsible for delivering surface water flowing in Bannock Creek. When the petition is filed, IDWR may also initiate the process to include the water rights in a water district.

The filing of a petition for conjunctive administration creates a contested case before IDWR. IDWR will schedule a prehearing conference and ultimately a hearing to determine whether conjunctive administration is appropriate. As the petitioner, you will bear the burden of proof for establishing that the ground water and the surface water are hydraulically connected, that the ground water and surface water are a source of common water supply, that diversion by ground water right holders is diminishing surface water supplies, and that the depletion in surface water flows caused by diversion under junior priority ground water rights materially injures your senior water right.

Barry Williams
January 3, 2005
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I've enclosed a copy of the Conjunctive Management Rules for your reference. You may also access the Conjunctive Management Rules (IDAPA 37.03.11) and IDWR's Rules of Procedure (IDAPA 37.01.01) on the internet at:

<http://www2.state.id.us/adm/adminrules/rules/idapa37/37index.htm>.

If you have further questions about this letter, please call me at (208) 287-4943 or Ron Carlson in Idaho Falls at (208) 525-7161.

Sincerely,



Gary Spackman

Enclosure
cc. Eastern Region

7/14/06 - Williams requested a second copy of this letter & the enclosure. 7/17/06 Completed - dg.

KARL
RECEIVED

OCT 28 2004

DEPARTMENT OF
WATER RESOURCES

Barry T. Williams
1277 Mink Creek Rd
Arbon, Idaho 83212

October 25, 2004

Karl J. Dreher
Idaho Department Of Water Resources
P. O. Box 83720
Boise, Idaho 83720-0098

Dear Mr. Dreher:

Subject: Delivery of water for water right 29-13528 and 29-10990 from rights 29-2458A and 29-7931A

Right 29-13528 is a stockwater right on Bannock Creek with a priority date of 7-1-1900. This right is on meadow land through which Bannock Creek flows for two and one half miles. Water right number 29-2458 is a well originally owned by Frank L. Johnson with a priority date of 1-19-1962. This well was pumped until about 1975, during which time it dried up Bannock Creek for one and one half miles through the North end of right 29-13528. The well was then abandoned until the spring of 1992. During this time, Bannock Creek flowed more than a sufficient stream of water; about 2 CFS at it's low.

Bill Curry is the current owner of right 29-2458A, a portion of right 29-02458. Bill started pumping this well the spring of 1992 and dried up Bannock Creek through the same one and one half miles. As a result, Fort Hall Irrigation took the water of rights 29-10990, 29-00476 and 29-00477 which have priority dates of 4-1-1892, 4-1-1892 and 4-1-1897 respectively. I talked to Bill but the well continued to pump. Except for about one month each spring, prior to pumping the well, this stretch of Bannock Creek has been dry since. The creek is dry downstream for about one mile until an abandoned artesian well flows in. If not for the artesian well, Bannock Creek would be dry for twelve miles to where West Fork Creek enters.

Water right 29-7931A has a priority date of 3-15-1990 and began pumping a large amount of water in about 1994. By 1996 this well dried the remaining one mile of Bannock Creek included in right 29-13528. By 1998 the well had dried Bannock Creek to its source.

I am sixty one years old and during my lifetime Bannock Creek has never been dry through this two and one half miles of meadow land except when one or both of these wells have been pumping. Five hundred three acres of these meadows are classified as wet lands. The wells have dried up the springs and ponds and lowered the water table over seven feet. These were wet meadows and without the influence of the wells, the water raised each October until the ponds were full and the swales would have standing water.

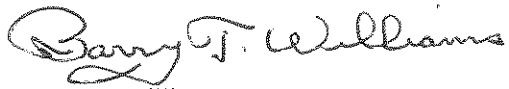
Water right 29-10990 is delivered according to the Bannock Creek Decree of 1907 and is in jeopardy because of Bannock Creek being dry. The water in Bannock Creek belongs to the Tribe and should be delivered.

This situation is not due to the drought. I have two springs to the East of Bannock Creek that are fed from a different source and they have varied little in their flow. I have observed this land and creek my entire life and have observed the rapid decline in water each time a well is started. No amount of moisture is going to rectify this situation as long as the wells are pumping each summer. This has been an accumulative situation getting considerably worse each year.

I have complained verbally to the Idaho Department of Water Resources and the Tribe for twelve years. I was told that once the adjudication process got to this stage, something could be done. There is no better testimony than seeing this situation in person. I have talked to Elise Teton with Tribal Water Resources about visiting this area. I would like for someone from the IDWR to attend.

I have talked to both well owners in the past but the wells are not going to be shut off until you enforce the law.

Yours truly,

A handwritten signature in cursive script that reads "Barry T. Williams". The signature is fluid and written in dark ink.

Barry T. Williams