



Brad H. Bearnson
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Licensed in Utah, Idaho, Arizona and Wyoming

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AUG 01 2012

Department of Water Resources
Eastern Region

July 30, 2012

Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Re: *Carl Howlett—Permit 13-7785*

Gentleman:

The undersigned represent Mr. Carl Howlett in regard to the above-referenced permit and what now appears to be the interference in the means of conveyance of the water subject to that permit. Mr. Howlett was approved for a permit to establish a new water right on August 9, 2011 by your department (Permit #13-7785.) In recent weeks, Mr. Howlett's neighbor, Mr. Jim Gilbert, has interrupted the historic flow of the water to Mr. Howlett's property. Despite efforts to work with Mr. Gilbert, he has refused to engage in productive discussions to correct the situation and has failed to reestablish the water flow to the Howlett property. We are attempting to avoid litigation in the matter with Mr. Gilbert and to otherwise amicably resolve the issue. However, Mr. Gilbert remains uncooperative.

I am enclosing a letter we have sent to Mr. Gilbert, reminding him of the right of Mr. Howlett to have excavation or construction of the diverting works commenced by August 9, 2012 per the Permit instructions. Any assistance your Department can provide in furtherance of this matter would be appreciated. In the event you have any questions or require anything further regarding this matter, please contact the undersigned at your convenience.

Yours truly,

BEARNSON & CALDWELL, LLC

A handwritten signature in blue ink, appearing to read 'Brad H. Bearnson', written over a large, faint, light blue circular background with the letters 'BC' inside.

Brad H. Bearnson

Enclosure

cc: Carl Howlett



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& CALDWELL

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July 30, 2012

Jim Gilbert
68 East 4800 South
Preston, ID 83263

RE: Carl Howlett—Permit No. 13-7785

Dear Jim:

The undersigned and the above-captioned firm represent Mr. Carl Howlett in various matters. In conjunction with our representation of Mr. Howlett, we are informed of you recent actions on adjoining property that have interrupted the flow of water to the Howlett property. Your actions are a direct interference with Mr. Howlett's water rights and are in violation of the easement granted Mr. Howlett over your property to convey the water in question.

Mr. Howlett was granted a permit by the Idaho Department of Water Resources dated August 9, 2011 providing him the right to appropriate water for his use from the stream flow on the east side of your property. Idaho Code section 42-1102 grants Mr. Howlett an easement over your property for the conveyance of the water in question.

At present, Mr. Howlett is being damaged by your interference with the stream flow. His damages are severe and ongoing. In order to remedy the situation, we require that you either take corrective actions restoring the stream flow or allow Mr. Howlett the opportunity to do so. Indeed, Mr. Howlett had the right to enter upon your property to correct the matter. However, he does not want to engage in any form of confrontation with you in that regard. It is our understanding that you have failed to communicate with him in regard to this matter.

We note that Mr. Howlett also has the right to condemn a right of way for the use of the stream water for concurrent use in common with your water use rights from the stream. In that case, Mr. Howlett will have a right to enter the land across which the right-of way extends to repair the diversion himself at your expense under Idaho Code § 42-1102.

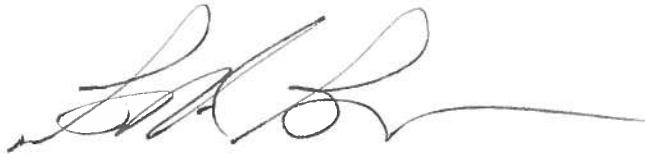
It is our hope that you will cooperate with Mr. Howlett in this matter, to both restore the flow of water and to avoid ongoing damages and litigation. Time is of the essence. Your prompt response to this letter is required, either directly with our office or Mr. Howlett. Your failure to respond will be considered refusal to recognize Mr. Howlett's rights and will result in further

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actions, through which you will be called to account for Mr. Howlett's damages and attorney's fees.

Yours truly,

BEARNSON & CALDWELL, LLC

A handwritten signature in dark ink, appearing to read 'B. H. Bearnson', with a long horizontal flourish extending to the right.

Brad H. Bearnson

cc: Carl Howlett