

PATRICK D. BROWN, P.C.
LAW OFFICES

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September 24, 2000

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SEP 28 2001

Department of Water Resources
Southern Region

Mr. Allen Merritt
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls, ID 83301

RE: IDWR letter to Wayne and Melodie Baker regarding concerns about the place of use and point of diversion of their Pine Creek rights.

Dear Allen:

As you I discussed on the telephone, in order to address the concerns stated in your letter to the Bakers, we are doing the following,

1. The concerns about irrigation beyond the place of use are being addressed by identifying the property boundaries and by aligning the sprinklers so they do not cross those boundaries. The Bakers have been in touch with the BLM, who I understand will be flagging the property lines. Also, the Bakers want me to point out that some of the "irrigation" identified by IDWR in the lower lying areas is not a result of the application of water outside of the place of use. Rather, parts of the meadows are green due to surface and subsurface run off from irrigation within the place of use. In any event, the concerns are being addressed by marking the property and realigning the sprinkler systems to confine the application to the place of use.

2. To address concerns about the points of diversion, the Bakers are filing transfer applications. These applications are enclosed. They include transfers for each right affected by the installation of a pipeline further up the canyon from the decreed PODs. Because both the old and the proposed points of diversion are on federal property, the Bakers are addressing rights of way with the BLM. As a part of their transfer application, a copy of the proposed application for right of way with supporting documentation is enclosed.

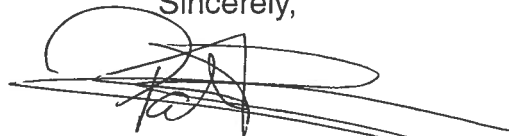
It may take some time for the right of way applications to work their way through the federal system. I would like to discuss whether or not it is better to advertise the transfer applications at this point, or wait until the BLM has made a determination concerning the rights of way.

Since the new point of diversion results in less water being lost in transit, more water should remain in Pine Creek during the irrigation season. Pine Creek flows into the East Fork of the Salmon River, and the change results in significant water saving for the entire system. That leads me to believe that BLM will be inclined to grant the rights of way. Also, utilization of the piping, which is now in place, should not injure anyone in the interim. In fact, I believe everyone benefits.

Consequently, I would ask you to call if you have any concerns about maintaining the status quo until rights of way and transfer applications have worked through the system.

If I have failed to address any of your concerns, or if you need further, information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'P.D. Brown', with a large, sweeping horizontal stroke underneath.

Patrick D. Brown
Attorney at Law

pdb/tf

ENC. (2TrnsApps, ROWapp)

cc: Melodie Baker