

November 12, 2009

Mr. James Cefalo  
Idaho Department of Water Resources  
900 North Skyline Drive, Suite A  
Idaho Falls, ID 83402-1718

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Department of Water Resources  
Eastern Region

Dear Mr. Cefalo:

I am enclosing a letter sent from Maurice Toler to me for my knowledge, but intended for your inspection. Maurice is over 90 years old and he has stated the problem with unusual understanding and clarity.

Mr. and Mrs. Dennis Toney are resolved to go to a civil court due to serious irregularities with the title company at the time of the sale to them by Jess R. Jones and Laura L. Jones on 31 March, 2000. I want to give you the history of the sales on the property so that you will understand all of the transactions of the property. David Armstrong sold the property in question to, Heber J. Olson. Heber gave it to my brother Spencer J. Olson by Gift Deed. Spencer J. Olson sold the property to Calvert and Josie Christensen. Calvert built the home on the property. Calvert and Klain were farming as a partnership and they incurred massive debt with the Downey State Bank using their crops and homes as collateral.

The Downey State Bank foreclosed on the property and Calvert and Klain filed for bankruptcy. They forced a cram down onto the Downey State Bank and onto Farmers Home Administration according to a long list of mortgages, obtained from the county records. Idaho Bank and Trust of Pocatello, Idaho, purchased the home and property from the Downey Bank since the cram down of the Christensen brothers sent Downey Bank into foreclosure by the FDIC. Idaho Bank and Trust purchased the home from the Downey State Bank, Downey, Idaho and sold the property to Andrew and Monica Abrams on June 29, 1987 through American Land and Title Co. recorded with the county as instrument #797381 for \$60,000.

Klain said in his letter to all protestants that he sold the property to Andrew and Monica Abrams with an attached easement exhibit. The easement (of which there were three different copies) is dated July 1987 and the sale to Abrams by warranty deed (800641 recorded on Sept 1, 1987 at Bannock County).

In the application Klain said he sold the property at a reduced price and obtained the easement at the time of the sale. Since Andrew and Monica Abrams had purchased the same property from Idaho Bank and Trust Co. in June 1987 we don't understand how Klain, not owning the home and land, could sell it again to Andrew and Monica. I brought this up during the pre-hearing and Klain said, "I didn't sell the house, a bank did." He then said, "you can tell

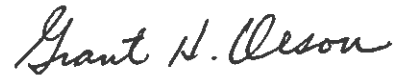
that the warranty deed from me to Abrams is not a legal document." However, he submitted it with his application to IDWRB.

Most of us in the Garden Creek Irrigation Co. agree with the statement of Maurice Toler, our oldest member. "The easement belongs in the court. The matter of the water record must be solved by the Idaho Dept. of Water Resources. If this Dept. uses the same formula used since 1906, and approved in the Twin Falls court, then we have no objections.

Please let Klain and the Toneys take care of the easement problem first. This problem will involve the Title Co., the IRS (since no 1099S was filed on the cram down) and possibly the forgery of documents, and the misrepresentation of the property to the Toneys by the Title Co. The Title Co. wants to settle out of court but the Toneys are so frustrated that they want to clean the matter up through a court process.

The Garden Creek Irrigation Company plans to meet in December to decide on documents and a witness list for the hearing. If you decide to wait for the courts to have their say prior to our hearing, we will feel like that is appropriate. In fact there may be little need for a hearing after that ruling.

Sincerely,

A handwritten signature in cursive script that reads "Grant H. Olson".

Grant H. Olson

P.S. From our documentation it is clear to us that Klain and Elaine Christensen did not own the house on the date they claim they sold it "at a reduced price to Abrams and obtained the easement". However, Klain represented in his application that Andrew and Monica owned the property at the point of diversion on Garden Creek. Of course we know that wasn't correct since Abrams sold to Jones who sold to Toneys. Klain then puts a deed into the application indicating he sold the property to Abrams. Such misrepresentation of the facts should not go unnoticed by the Idaho Department of Water Resources.