



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 22, 2002

RECEIVED

JUL 24 2002

Department of Water Resources
Southern Region

Dave Sundberg
Watermaster
Water District 43
Box # 1
Malta, Idaho 83342

Dear Mr. Sundberg:

The state office of the Idaho Department of Water Resources (Department) recently received a copy of a letter you sent to Allen Merritt regarding the distribution of water from Almo Creek.

In your letter you accuse Mr. Roger Ling of misrepresenting the law and its application to the facts involving the Jones' diversion from Almo Creek. Later in the letter, you surmised that Mr. Ling's role, as legal counsel, was to misrepresent the law so his clients can divert water and defy their neighbors. As you know, Mr. Ling responded to the Department, seeking an immediate apology for these accusations. In a follow-up telephone conversation, Mr. Ling assured John Homan, a deputy attorney general representing the Department, that he does not intend to pursue legal action at this time. Even so, the Department cannot simply dismiss Mr. Ling's concerns without providing some guidance concerning your responsibilities as a watermaster.

Mr. Sundberg, although watermasters may harbor strong opinions about different water users and their attorneys, you must not use your position to communicate those opinions in an unacceptable and unprofessional manner. A watermaster is a representative of state government with the specific responsibilities defined in Chapter 6, Title 42, Idaho Code. I appreciate the factual information in your letter intended to assure that the water right holders in your district are treated fairly. And I appreciate your providing your interpretation of how this information should be addressed within your understanding of the relevant law. I also understand that you did not use your watermaster title in the letter. Never-the-less, a watermaster, as with any state employee, must exercise discretion in communications with the public and the professional community if the communication can be construed as being done as a state employee. The watermaster must refrain from engaging in disparaging accusations about the personal character of a water user's attorney because he disagrees with a legal position of that attorney. Disagreements over the facts and legal positions of the parties occur most everyday. Discussions to resolve those disagreements must be carried through in a

Dave Sundberg
July 22, 2002
Page 2

professional and respectful manner if the parties are truly interested in making progress to solve a particular problem.

Your discussion of the facts in the letter was very candid and helpful. Being somewhat removed in Boise, I appreciate the complete and frank description of the events being experienced by the water users in the area. As a result of the letter, Allen Merritt will be meeting with you and others to review the concerns raised in your letter. Certainly, there is nothing wrong with an acknowledgement between the parties that a dispute exists and that the parties disagree on the available remedy under law. But, I trust in the future that you will exercise additional care when acting as a watermaster, or in a capacity that can be viewed as acting as a watermaster, to avoid unnecessary discussions about personal character issues of those involved.

Please call me at 327-7910 should you have any questions or would like to discuss the matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Norman C. Young", written in a cursive style.

Norman C. Young
Administrator

cc: Allen Merritt
Roger Ling Esq.