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May 18, 1992

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

ATTN: TIM LUKE

RE: ORDER REQUIRING INSTALLATION OF MEASURING DEVICES-TRACY BAXTER

Dear Mr. Luke:

Since the issuance of the Department of Water Resources's April 28th Order requiring Mr. Baxter to install a measuring device, he has been attempting to comply with your Order. Those attempts have included his hiring a backhoe operator, repair of the diversion, removal of debris around the headgate for the purpose of installing a measuring device. Mr. Baxter has also been attempting to purchase a measuring device, however, he has been unable to find any prefabricated device available due to the numerous orders for the same. He is making arrangements for the construction of a measuring device similar to those on other diversions in the same area. However, even though he has used due diligence in attempting to comply with the order, the Watermaster has locked his headgates. The code is very specific that Mr. Baxter upon a showing of due diligence is entitled to a reasonable time in order to construct the measuring device.

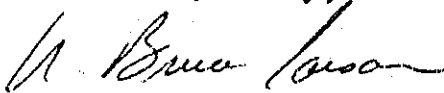
Contrary to what the department may have been told, it is apparent from viewing other diversions along the same stretch of river that there are no measuring devices installed on other diversions which would comply with the specifications contained in the pamphlet I received from your office. Mr. Baxter is requesting that the Department of Water Resources immediately remove the locks from his headgates so that he can use his water for irrigation and stock watering purposes. Secondly, that the Department of Water Resources recognize his due diligence attempts to construct the measuring device and allow a reasonable time for construction of

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that device as contemplated by the Idaho Statute. In the event the Department of Water Resources is not willing to comply with this request Mr. Baxter has no alternative but to consider himself a person aggrieved by the order issued by the Department of Water Resources and file an action reviewing that order with the District Court.

Mr. Baxter believes that his money and time as well as the money and time of the Department of Water Resources would be better served by following the dictates of the statute rather than by following this arbitrary action in cutting off his water contrary to the terms of the statute.

Yours very truly,



A. Bruce Larson

ABL:ck

cc: Tracy Baxter
Gary Spackman
Ron Carlson

0195L