



3000 Pegram Road • Montpelier, Idaho 83254

July 12, 1999

Water Master District #11
Pete Peterson
2483 Riverdale Rd.
Preston, Idaho 83263

Dear Mr. Peterson:

I am writing you this letter regarding our water rights and water assessments.

We purchased our property in Pegram area April 1, 1991. Since that time and through 1996 we were assessed on the Nuffer Canal, Sorensen Ditch and the Lloyd Ditch. Copies of these are at the Bear Lake Treasurers office in Paris, Idaho.

1991 was included in our closing		
3/30/92	Ck #622	\$ 68.21
4/05/93	Ck #1089	\$103.58
4/02/94	Ck #1510	\$ 51.72
3/08/95	Ck #2849	\$ 40.86
4/10/95	Ck #2553	\$ 80.08

Our assessment in 1997 changed drastically, after Emila contacted you. You started assessing us for the Sorensen Ditch only. I called Gerald Brown and have also left messages on you telephone answering machine.

4/04/97	Ck #2964	\$ 20.00	Was returned because you claim I overpaid
4/13/97	Ck #2978	\$ 5.71	
3/09/98	Ck #3369	\$ 5.71	
3/17/99	Ck #3562	\$ 7.31	

I have spoken to the Water Resource Department in Idaho Falls regarding the assessment notices. I was advised that you were the one that did the assessments and then advised the Water Resource Department. Please advise me if I misunderstood them.

I am enclosing a copy of your 1990 Water Assessments - Water District #11 which was attached to a letter from Gerald Brown, June 8, 1993, in answer to an inquiry I had regarding our Water Rights.

Please note a copy of his letter was cc to Pete Peterson. You had knowledge of this letter.

Enclosed in our letter, June 29, 1994, to The State of Idaho, Department of Water Resources, Boise, Idaho, requesting the water rights be transferred to our name.

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Water Master District #11
Pete Peterson

Your will find a copy of the Distribution of the Budget Among Users, Water District #11, 1994 Budget, that shows it was changed to our name.

We have been informed by a Mr. Jim Smith, the new owner that purchased the property north of us at a sale from Farm Services, that we do not have any water rights out of the Lloyd Ditch (Ezra Phelps Dam), located north of our home.

I am enclosing a copy of the **ORDER** from Idaho Department of Water Resources dated April 28, 1992, as a result of a request from the Watermaster of Water District #11. If you will take note on page two of the Order #1, it states, "That those water users identified in attachment A (which was Tracy Baxter only) of this order who divert water from the Bear River through the **SORENSEN AND LLOYD DITCHES** are required to install and maintain measuring devices and lockable controlling works of a type acceptable to the Department prior to May 10, 1992". *(capital & bold added)

I am also enclosing a copy of the letter we received from Tim Luke, Hydrologist, Department of Water Resources, State of Idaho, dated June 11, 1992. This letter is mainly regarding the Sorensen Ditch. After Mr. Luke explained in his letter the problem with the measuring device then he wrote, "While at your ditch, it was necessary for the watermaster and I to current meter the ditch. Our initial measurement showed that you were not getting all our your water. The headgate was subsequently adjusted so that the proper amount could be delivered. We found that a full opening of your headgate on this day only yielded an amount which was a little less that you were actually entitled given the current available natural flow of the river." I appreciate his closing statement, "Please contact this office if you have questions concerning this letter or need assistance regarding this matter".

I cannot recall you ever making reasonable contact with us to assist in this matter or any other matter.

Our Decrees

11-0925 1877 - April 15, "Meadow Right" Sorensen
12 CFS 4/15 - 7/1
8 CFS 7/1 - 9/30

11-0926 1880 - April 15, "Meadow Right"
16.8 CFS 4/14 - 7/1
11.2 CFS 7/1 - 9/30

11-0927 and 11-0928 1880 - April 14, "Meadow Right" Ezra Phelps
1.2 CFS 4/15 - 7/1 Dam
.8 CFS 7/1 - 9/30

Water Master District #11
Pete Peterson

Page 3

11-0948 1897 - May 1st "Agricultural Right" Ezra Phelps Dam
3 CFS

I hope all the information I have enclosed will be helpful to get the water situation settled on our property so we will not always have threatening remarks made to us and about us.

When we first moved into the area in April, 1991, you approached us in a very unprofessional manner. If you have come and talked to us and been helpful in what needed to be done as far as the measuring devices the **ORDER** you requested could have been avoided and Mr. Luke would not have had to waste his time in coming down and spending a good portion of his day to meter the ditch.

It doesn't matter whether or not you like us, you have a job to do as Water Master, and you should treat everybody equally according to the water rights.

Mr. Marriner Jensen said you were not even aware of where he took his water from. Evidently, since you have changed our water assessments as of 1997, your knowledge of our water decrees must not be clear. We were told that you also approached Mr. and Mrs. Jensen in a very unprofessional way just recently. We were unhappy to hear this as Mr Jensen has been having some health problems.

It has come to our attention from Jim Smiths attorney that you authorized his use of water. The question I have reading this, is why some of us are required to put in measuring devices and others are not? ex. Jim Smith and Conrad Nebeker.

We also understand that you believe you have the authority to tell Mr. Jim Smith he has the right to trespass upon our property in spite of the fact it is legally posted: "Keep Out", "No Trespassing" and a verbal warning by our employee to not enter our property with the intent to destroy and do damage.

Enclosed is a copy of a letter dated March 23, 1993, to Mr. Marriner Jensen from David R. Birch, Farmers Home Administration, Soda Springs office, regarding their refusal to help us in the cost to repair the dam. The Decree 11-0946 and 11-0947 states, "All of said water to be diverted from Bear River by means of a Dam known as the Ezra J. Phelps Dam". It is impossible to get water out of the Bear River without the dam. Do you think the Baxters and Jensens should pay for the expensse on repair of the dam and others benefit from it?

Phelps Dam is D.V. Dam for Floyd Ditch

Water Master District #11
Pete Peterson

page 4

We would appreciate you contacting us or our attorney Ray W. Rigby, Rigby, Thatcher, Andrus, Rigby, Kam & Moeller, Rexbury, Idaho, so we can this major problem resolved.

Sincerely,

Sharon Baxter

Tracy & Sharon Baxter
3000 Pegram Rd
Montpelier, Id 83254

cc: Karl Dreher, Director - Dept of Water Resource, Boise, Idaho
Tim Luke, Hydrologist - Dept of Water Resource, Boise, Idaho
Harold Jones - Dept of Water Resource, Idaho Falls, Idaho
Ray W. Rigby, Attorney - Rexbury, Idaho

GERALD L. BROWN
CERTIFIED PUBLIC ACCOUNTANT

VOICE (208) 547-3305

P.O. BOX 378
SODA SPRINGS, ID 83276-0378

FAX (208) 547-3305

June 8, 1993

Sharon Baxter
3000 Pegram Road
Montpelier, ID 83254

Dear Sharon,

As per your request I am confirming the water rights that I have in my records for Kay Rigby. On the Nuffer Canal there is a 12.00 cfs right. On the Sorensen Ditch there is a 29.40 cfs right. On the Lloyd Ditch there is a 11.00 cfs right. It is my understanding that you have purchased some or all of these water rights. You were unsure on which ones. These figures are what I show and as far as I know they are correct. However, I cannot guarantee that these amounts are correct or that you actually own them. As I suggested you may wish to contact the Idaho Department of Water Resources in Boise for further clarification. Please let me know when you find out which rights you own and if these amounts are correct.

Sincerely yours,



Gerald L. Brown,
Certified Public Accountant

pc Pete Peterson

1990 WATER ASSESSMENTS - WATER DISTRICT #11 BEAR RIVER

<u>Owner or Ditch</u>	<u>Decree Rights</u>	<u>Total 24 Hr. Sec. Ft.</u>	<u>Total Cost 1990</u>
<u>Miller Ditch</u>	<u>21.5</u>	<u>310</u>	<u>20.00</u>
LaVoy Esterholt	3.45=16.05%		3.21
Grant Esterholt	3.45=16.05%		3.21
LaVoy Taylor	1.20=05.58%		1.12
Henry Rigby	13.40=62.32%		12.46
<u>Nuffer Canal</u>	<u>28.30</u>	<u>1,220</u>	<u>68.20</u>
Henry Rigby	7.40=26.15%		17.83
Larry Butler	3.00=10.60%		7.23
DeMar Romrell	4.50=15.90%		10.84
LaVoy Taylor	1.40=04.95%		3.38
Key Rigby	12.00=42.40%		28.92
✓ <u>Ream - Crockett</u>	<u>62.30</u>	<u>2,616</u>	<u>146.23</u>
<u>Sorenson Ditch - Kay Rigby</u>	<u>29.40</u>	<u>0</u>	<u>20.00</u>
<u>Jensen Ditch - Mariner Jen.</u>	<u>8.30</u>	<u>0</u>	<u>20.00</u>
<u>Lloyd Ditch - Kay Rigby</u>	<u>11.00</u>	<u>0</u>	<u>20.00</u>
✓ <u>Bingle Irrigation</u>	<u>67.00</u>	<u>5,067</u>	<u>283.25</u>
✓ <u>Black Otter Canal</u>	<u>121.00</u>	<u>8,091</u>	<u>452.29</u>
Black Otter Irr.	103.50=85.54%		386.89
✓ Peg Leg Irr.	17.50=14.46%		65.40
<u>Preston Montpelier Irr.</u>	<u>75.90</u>	<u>4,106</u>	<u>229.53</u>
<u>LaRocco Kent Canal</u>	<u>16.25</u>	<u>224</u>	<u>20.00</u>
Darrell Keetch	11.15=68.62%		13.72
Paul Keetch	03.80=23.38%		4.68
Larry Linford	01.30=08.00%		1.60
<u>Pugmire Ditch</u>	<u>06.90</u>	<u>154</u>	<u>20.00</u>
✓ <u>Westfork Irr.</u>	<u>160.00</u>	<u>10,108</u>	<u>565.04</u>
<u>Budge Canal</u>	<u>28.50</u>	<u>1,224</u>	<u>68.42</u>
Magee Harris	26.50=92.98%		63.62
Randy Panter	02.00=07.02%		4.80
Paul Kunz #1 & #2	07.50	47	20.00
Parley Kunz	01.66	0	20.00
Dean Kunz	06.18	22	20.00
S. & R. Kunz	01.74	36	20.00
Larry Alleman	02.10	0	20.00
Cloyd Wallentine	01.60	0	20.00
Wayne Kunz	02.89	69	20.00
Allen Phelps	01.17	49	20.00
L. Stevens	04.00	23	20.00
R. Christensen	03.08	98	20.00
<u>TOTAL BEAR LAKE COUNTY</u>		<u>33,464</u>	<u>2,132.96</u>
<u>Last Chance Canal Co.</u>	<u>658.00</u>	<u>32,446</u>	<u>1,813.73</u>
<u>Gentile Valley Canal</u>	<u>71.20</u>	<u>5,477</u>	<u>306.16</u>
Gentile Valley Canal	33.00=46.35%		141.91
Thatcher Irrigation	26.20=36.80%		112.67
Jim Elmore	07.00=09.83%		51.58

June 29, 1994

State of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

Dear Sirs:

We, Tracy and Sharon Baxter, purchased the Kay Rigby ranch at 3000 Pegram Road, Montpelier, Idaho on April 1, 1991. Enclosed you will find a copy of the deed. Also, enclosed is a copy of the water assessments for the year 1990 for Water District #11 Bear River.

We are requesting these water rights be transferred to Tracy Baxter as they were transferred with the sale of the property.

Please send us copies verifying transfer

Thank you for your help in this matter.

Sincerely,

Tracy Baxter

enc

Nov-07-96 14:22

208 547 2241 BAXTER RANCH; #4

Caribou Title

208 547 2241

P.04

DISTRIBUTION OF THE BUDGET AMONG USERS

WATER DISTRICT #11
WATER USER NAME
1994 BUDGET

ADDRESS

NET AMT
TO BILL
THIS YR

MILLER DITCH	412 N 5TH, MONTPELIER ID 83254	-4.78
**LAVOY ESTERHOLT	160 SOUTH 2ND, MONTPELIER ID 83254	-4.78
**GRANT ESTERHOLT	EMMAUS FUND, 1734 MILLBROOK RD, SLC UT 84106	-1.68
**LAVOY TAYLOR	49 CANAL LN, MONTPELIER ID 83254	-18.56
**HENRY RIGBY		
NUFFER CANAL	49 CANAL LN, MONTPELIER ID 83254	14.04
**HENRY RIGBY	MONTPELIER ID 83254	5.69
**LARRY BUTLER	6000 PEGRAM RD, MONTPELIER ID 83265	8.53
**DEMAR ROMRELL	EMMAUS FUND, 1734 MILLBROOK RD, SLC UT 84106	2.42
**LAVOY TAYLOR	TRACY BAXTER 3000 PEGRAM RD MONTP. ID 83254	23.05
**KAY RIGBY	TRACY BAXTER 3000 PEGRAM RD, MONTP. ID 83254	8.67
SORENSEN DITCH-KAY RIGBY <i>tracy baxter</i>	8989 US HWY 30, MONTPELIER ID 83254	31.38
JENSON DITCH-MARINER-JENSEN *	TRACY BAXTER 3000 PEGRAM RD, MONTP. ID 83254	20.00
LLOYD DITCH-KAY RIGBY	MONTPELIER ID 83254	291.16
DEAN IRRIG. CO.		
BLACK OTTER CANAL	MONTPELIER ID 83254	424.07
**BLACK OTTER IRRIG. CO.	MONTPELIER ID 83254	71.70
**PEG LEG ISLAND IRRIG	MONTPELIER ID 83254	300.29
PRESTON MONTPELIER IRRIG		
LAROCCO KENT CANAL	327 S 7TH, MONTPELIER ID 83254	13.72
**DARRELL KEETCH	1052 DINGLE RD, DINGLE ID 83233	4.68
**PAUL KEETCH	3163 DINGLE RD, MONTPELIER ID 83254	1.60
**LARRY LINFORD	MONTPELIER ID 83254	20.00
PUGMIRE DITCH	GENEVA ID 83238	405.27
WESTFORK IRRIG.		
BUDGE CANAL	1501 EIGHT MILE RD, SODA SPRINGS ID 83276	19.00
**MCGEE HARRIS	14885 N HWY 34, THATCHER ID 83283	1.45
**RANDY PANTER	491 MAIN, BERN ID 83220	40.00
PAUL KUNZ #1 & #2		0.00
PARLEY KUNZ	MONTPELIER ID 83254	20.00
DEAN KUNZ	198 MAIN, BERN ID 83220	20.00
STEPHEN & R KUNZ	1630 LOWER BERN RD, BERN ID 83220	20.00
LARRY ALLEMAN	104 E 2ND N, PARIS ID 83261	0.00
CLOYD WALLENTINE	866 ADAMS, MONTPELIER ID 83254	20.00
WAYNE KUNZ	MONTPELIER ID 83254	20.00
ALLEN PHELPS	RT # 2, MONTPELIER ID 83254	20.00
LYLE STEVENS	STUART CRANE 87 S 1 E, BENNINGTON ID 83254	20.00
R. CHRISTENSEN	4854 DINGLE RD, DINGLE ID 83233	311.40
REAM-CROCKETT		

TOTAL BEAR LAKE COUNTY

2128.34

*Mr.
Jones*

WATER ASSESSMENT

TO: TRACY BAXTER

3000 PEGRAM RD.

MONTPELIER, ID 83254

DATE FEB. 17, 1994 WATER DIST. NO. 11

ASSESSED AGAINST HUFFER CANAL - \$23.05

SORENSEN DITCH - 8.67

LLOYD DITCH - 20.00

AMOUNT DUE: \$51.72

AMOUNTS TO BE COLLECTED AND REMITTED TO
WATER DISTRICT # 11 BY APRIL 1st 1994
OR NO WATER WILL BE ALLOWED.

8% interest will be charged on unpaid accounts.

PLEASE SEND PAYMENT TO:

NOLA F. JONES, TREASURER
BEAR LAKE COUNTY
P. O. BOX 55
PARIS, ID 83261

COUNTY TREASURER'S

WATERMASTER TAX RECEIPT

BEAR LAKE COUNTY, IDAHO

Water District No. 11

SEASON OF 1994

PARIS, IDAHO

Assessed Against

Huffer Canal - 23.05
Sorenson Ditch - 8.67
Lloyd Ditch - 20.00

Paid by

Address

Budget

\$ 51.72

Total Tax Paid

Interest from

Total Tax Paid

\$ 51.72

This receipt is issued subject to collection where
payment is tendered in form other than cash.Nola F. Jones
Treasurer of Bear Lake County, Idaho

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF REQUIRING MEASURING DEVICES)
 AND ORDERING WATERMASTER CONTROL OVER ALL)
 HEADGATES, CONTROLLING WORKS AND OUTLET GATE) ORDER
 CONTROLS ON THE BEAR RIVER WHICH COMPRISES)
 WATER DISTRICT 11.)

This matter having come before the Idaho Department of Water Resources (Department) as a result of a request from the watermaster of Water District 11, the Department finds as follows.

FINDINGS OF FACTS

1. Certain rights to use the waters of the Bear River above Montpelier, Idaho have been determined by a decree of the District Court of the State of Idaho in the case of Preston-Montpelier Irrigation Co. vs. Dingle Irrigation Co. dated March 7, 1924.

2. Water District 11, which includes the Bear River and its tributaries is an active water district under the laws of Title 42, Chapter 6, Idaho Code.

3. During low flow periods, the watermaster of Water District 11 must measure the flows diverted from the Bear River and regulate all diversions by setting the headgates and/or controlling works.

4. Not all the diversions from the Bear River are equipped with adequate measuring devices and/or controlling works.

4. Section 42-701, Idaho Code, authorizes the Department to order the installation and maintenance of measuring devices, headgates and/or controlling works.

ORDER

IT IS HEREBY ORDERED:

1. That those water users identified in Attachment A of this order who divert water from the Bear River through the Sorensen and LLOYD Ditches are required to install and maintain measuring devices and lockable controlling works of a type acceptable to the Department prior to May 10, 1992.

2. That the watermaster shall have complete control of all headgates and controlling works at all points of diversion on the Bear River, including the Sorensen and Lloyd Ditches.

3. The watermaster of Water District 11 shall not deliver water after May 10, 1992 from the Bear River to the Sorensen and Lloyd Ditches if said diversions do not have adequate measuring devices, headgates and/or lockable controlling works as determined by the watermaster.

Dated this 28th day of April, 1992


R. KEITH HIGGINSON
DIRECTOR

Oct-21-96 15:43 Caribou Title

208 347 2241

P.01

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

June 11, 1992

Tracey Baxter
3000 Pegram Rd.
Montpelier, ID 83254

Re: Sorensen Ditch Measuring Device

Dear Mr. Baxter:

On June 3, 1992, I visited the upper reach of the Bear River and had an opportunity to inspect the Sorensen Ditch and the penvane measuring device which you recently installed. Pete Peterson, the Bear River watermaster, accompanied me on this inspection. The inspection was made during Mr. Peterson's normal round of upper reach diversions.

The particular size penvane or deflection vane found at the measuring site was not adequate in relation to the height of the penvane holding bracket and width of the channel/railroad tie form structure. This particular size vane does not sit freely on the bracket nor can it be freely suspended in the water. Either the bracket is too low for this size vane or the vane is too long for the height of the bracket. Moreover, the vane at your site is made for a 5 foot channel whereas the width of your channel is only about 4.5 feet wide. Due to the size and/or specification problems described above, your penvane measuring device is completely inoperable and is therefore not acceptable.

While at your ditch, it was necessary for the watermaster and I to current meter the ditch. Our initial measurement showed that you were not getting all of your water. The headgate was subsequently adjusted so that the proper amount could be delivered. We found that a small opening of your headgate on this day only yielded an amount which was a little less than you were actually entitled given the current available natural flow of the river. The initial current metering and subsequent adjustments and current metering on your ditch consumed a considerable amount of our time. Due to this delay, Pete and I missed a scheduled meeting later that day with a group of water users. All of the other ditches and diversions I visited in the area that day were equipped with functional measuring devices.

Since it appears that you can not physically divert your full entitlement, the watermaster and I decided that it was not necessary to close your headgate due to lack of an adequate measuring device. I further do not believe it is necessary for the Department to require some immediate deadline in which to install an adequate device. I do however strongly recommend that you

CECIL D. ANDRUS
GOVERNORR. KEITH HIGGINSON
DIRECTOR**RECEIVED**

JUN 12 1992

A. BRUCE LARSON, ATTORNEY

Oct-21-96 15:43 Caribou Title

208 847 2241

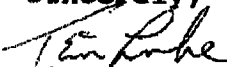
P.02

correct the problem as soon as possible. Long delays in correcting this problem can result again in closure of your headgate. If changes are made to the diversion works or headgate this season so that additional water can be diverted, then the Department will instruct the watermaster to shut the headgate and require you to immediately install an adequate measuring device if one has not already been installed.

I suggest that you consider installing a simple rectangular or cippolletti weir or a parshall flume. Either weir can be installed at the front end of your railroad tie structure. Specifications for weirs can be found in the water measurement booklet already sent to you. Weirs can be constructed out of aluminum or galvanized steel. Some sheet metal shops in your area may have some experience with constructing weirs or could probably make them if they have the specifications. You may be able to order pre-fabricated parshall flumes from Contech Construction Products in Twin Falls or Salt Lake City. The A & B Irrigation District in Rupert, Idaho may have some flumes which you could purchase and pick up in Rupert. The Department does not particularly recommend penne devices. Accuracy in reading penne can be effected by wind and floating debris. Weirs and flumes are generally easier to use and are often more accurate. These latter devices are certainly more common and widely used today in Idaho. Penne however are adequate if they are the proper size for the channel and properly installed.

Please inform this office or the watermaster as to when you expect to correct the problem outlined in this letter and when a functional measuring device will be installed. Please contact this office if you have questions concerning this letter or need assistance regarding this matter.

Sincerely,


Tim Luke
Hydrologist

cc: Pete Peterson
Bruce Larson
Region

United States
Department of
Agriculture

Farmers
Bure
Administration

159 East 2nd South, No. 3
Soda Springs, Idaho 83276



March 23, 1993

Mr. Marriner Jensen
8989
US HWY 30
Montpelier, ID 83254

Dear Mr. Jensen:

We have finally received a response back from our State Office concerning the dam you are rebuilding.

They have decided that FmHA will not participate in the repair of the dam. They have indicated that as the dam has not been in existence for the past 10 to 12 years, there may be a question as to the legal right to build the dam. Also, there is no water users agreement existing documenting the responsibilities and rights of the landowners involved.

If you have any questions, please contact this office.

Sincerely,

DAVID R. BIRCH
Assistant County Supervisor