



RECEIVED  
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WD 11 2006

Please Reply To:

John P. Sample, Senior Counsel  
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**VIA FEDERAL EXPRESS**

January 31, 2007

Mr. Dave Tuthill, Director  
Idaho Department of Water Resources  
322 E. Front St  
P.O. Box 83720  
Boise, Idaho 83720-0098

**Re: Complaint Concerning Mr. Pete Peterson, Watermaster, Water District No. 11**

Dear Mr. Dreher:

The following constitutes the complaint of PacifiCorp and its subsidiaries, including PacifiCorp Energy and Utah Power ("PacifiCorp"), against Mr. Pete Peterson, Idaho Water District No. 11 ("the District") watermaster, pursuant to section 42-605(9) of the Idaho Code. See Idaho Code § 42-605(9). PacifiCorp is concerned with Mr. Peterson's recent actions, inactions, and demand for payment, and recommends the State of Idaho investigate Mr. Peterson and take all other necessary steps to insure District watermaster duties are conducted in compliance with State law.

**I. Jurisdiction and Standing**

The Idaho Code provides that a party possessing rights to use water in a water district may file a complaint with the Director of the Idaho Department of Water Resources to investigate alleged improper actions of an appointed watermaster. See Idaho Code § 42-605(9). The Director shall investigate the complaint, and after a hearing, if the Director finds allegations contained in the complaint to be true, the Director may remove the watermaster and appoint a successor for his unexpired term. Id. On its own initiative, the State of Idaho may investigate public employees to insure their proper use of public resources. See Idaho Code § 18-1359.

PacifiCorp possesses vested rights in the Bear River to use water for hydroelectric generation and other purposes; such rights are administered by the District. PacifiCorp has made use of these rights for over 80 years, and during that time has worked cooperatively with the District, the community, and the State to insure the proper use of its water rights.

PacifiCorp is now regrettably compelled to file this complaint to notify the Department of Water Resources about irregularities in District operations that may violate State law, and that may jeopardize the regulation and continued proper use of irrigation waters within the District.

## **II. Mr. Peterson Has Failed to Reliably Perform His Duties as District Watermaster and Has Indicated His Intent to Resign His Position on Multiple Occasions**

Watermasters serve an important function in the operation of water districts as recognized by Idaho law, and the consistent, reliable performance of the watermaster is essential to insuring safe delivery of water. Recent events suggest that the performance of the District's watermaster has been highly unreliable, thus jeopardizing District operations.

For a period of approximately four weeks in 2006 Mr. Peterson openly stated that he was no longer carrying out his responsibilities as watermaster consistent with the requirements of State law. See Affidavit of Connely Baldwin at 3. Specifically, Mr. Peterson stated that he was not traveling to designated headgates and monitoring diversions or keeping flow records in accordance with his responsibilities, and that he had no intent to do so. Id. Mr. Peterson has either resigned, or threatened to resign, on several occasions in 2005 and 2006. Id. at 4.

Aside from his statements regarding resignation, it appears that in 2006 Mr. Peterson failed to fully carry out his responsibilities as District watermaster. In August, 2006, for a period of about three weeks Mr. Peterson "estimated" District water diversion rates instead of traveling to headgates to conduct a visual verification of diversions. Id. at 3-4. Such a practice is inconsistent with standard practices, and could very well have resulted in inappropriate distribution of irrigation water in 2006.

While not necessarily material to Mr. Peterson's compliance with State law, Mr. Peterson's demeanor has become increasingly unprofessional. PacifiCorp and other parties have witnessed a pattern of Mr. Peterson's unprofessional behavior, including outbursts during the 2005 Water District No. 11 Advisory Committee meeting, and inappropriate verbal exchanges with District staff. This pattern of behavior suggests that Mr. Peterson is unable or unwilling to perform his duties as watermaster in a professional, nonconfrontational manner, and it suggests that affirmative actions by the State are needed to remedy this situation.

## **III. Irregularities Exist in Mr. Peterson's Use of District Funds that Warrant Investigation**

Idaho law prohibits a public servant from using public funds or property to obtain a pecuniary benefit for himself without the specific authorization from the governmental entity that he serves. See Idaho Code § 18-1359. Any violations of State law in this regard may constitute grounds for dismissal from public employment. See Idaho Code § 18-1360.

Available evidence suggests that Mr. Peterson may have improperly sought and obtained reimbursement for certain expenses. PacifiCorp is aware of two specific examples of potentially improper conduct:

(1) Mr. Peterson appears to have sought reimbursement from both the District and PacifiCorp for the same claimed expenses. In 2006 Mr. Peterson requested that PacifiCorp reimburse him for certain vehicle expenses, including vehicle lease payments, gasoline, and repairs, while at the same time requesting that the District reimburse him at the standard Internal Revenue Service rate for vehicle mileage. See Affidavit of Connely Baldwin at 3.

(2) On at least three separate occasions in 2006 Mr. Peterson sought reimbursement for excessive vehicle mileage. In June of 2006 Mr. Peterson claimed to have traveled over 4,000 miles in the performance of his duties. No explanation is given for this excessive travel. During the months of April and May of 2006 he claimed to have traveled over 3,000 miles in each month. Id. at Exhibit B. These vehicle mileage claims seem excessive for monthly travel and warrant investigation.

Aside from these irregularities, PacifiCorp is aware of circumstances where the District directed Mr. Peterson to undertake tasks which have never been fully completed. For example, in 2006 the District directed Mr. Peterson to complete an inventory of District water diversion locations; however, Mr. Peterson failed to produce a completed inventory despite repeated requests to do so. Id. at 2. This failure raises questions about Mr. Peterson's use of District funds, and it suggests his unwillingness to perform required District functions.

#### **IV. The District Does Not Owe Further Payment to Mr. Peterson, and the District May be Due Repayment of Improperly Claimed Expenses**

On December 15, 2006, Mr. Peterson's representatives transmitted a letter to Austin Moses, District Treasurer, and District Advisory Board members demanding payment from the District in the amount of \$9,352.31 for certain allegedly unpaid expenses. The letter demands payment by the District within ten (10) days from its receipt, and it includes a table marked "Exhibit A" purportedly showing expenses incurred by Mr. Peterson, and expenses paid by the District. The letter does not provide a detailed accounting of expenses incurred, nor does it acknowledge advanced payments made by the District.

On January 19, 2007, the Idaho Attorney General's Office (the "AGO"), in its capacity as legal representative for the District, responded to the demand letter. The AGO notes the monthly history of vehicle expenses incurred by Mr. Peterson does not appear consistent with the statewide standards established by the State Controller's Office. The AGO also recommends that the Controller's Office conduct an audit of District financial records for years 2005 and 2006 before any further expenses are reimbursed to Mr. Peterson.

PacifiCorp believes that Mr. Peterson is not owed further expense payments, and that Mr. Peterson may in fact owe the District repayment for improperly claimed expenses. According to District records, the District advanced payment of \$13,250.00 to Mr. Peterson

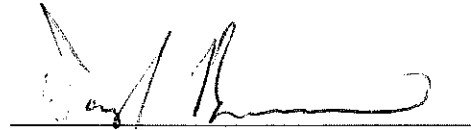
on April 6, 2006, to cover his expenses. Id. at 4. Thereafter, the District Treasurer subtracted a portion of claimed expenses from this advanced amount and made additional expense payments to Mr. Peterson. Id. According to District records, the remaining unused balance on the expense advance is \$7,975.00 as of January 5, 2007. Id. at 5. Consequently, Mr. Peterson may in fact owe the District a refund of at least \$7,975.00 because he has never submitted billing statements to justify his retention of advanced payments.

Mr. Peterson's December 15, 2006, demand letter fails to explain Mr. Peterson's use of the District's advance payment. PacifiCorp recommends that the AGO specifically inquire with Mr. Peterson regarding his use of the advanced expense payment. In the event the AGO determines Mr. Peterson has not fully accounted for his use of this advance, PacifiCorp recommends the State institute proceedings to recover this payment plus any reasonable interest owed. Finally, should Mr. Peterson institute proceedings against the State regarding this matter, PacifiCorp reserves its rights to intervene in such proceedings, and to seek recovery of attorney fees and other expenses incurred relating to such proceedings.

#### **V. Conclusions and Relief Requested**

Based upon the facts and information outlined above, PacifiCorp believes sufficient grounds exist to investigate Mr. Peterson to ascertain whether his actions or inactions as District No. 11 watermaster constitute a violation of State law. For the foregoing reasons, PacifiCorp respectfully requests that the State of Idaho investigate Mr. Peterson and take all necessary and appropriate actions to insure Mr. Peterson's compliance with State law.

Respectfully submitted this 31 day of January, 2007.



Douglas J. Bornemeier, Manager  
Water Resources Management  
Hydro Resources & Engineering  
PacifiCorp Energy  
825 NE Multnomah Street, Suite 1500  
Portland, OR 97232-2135  
(503) 813-5000

Enclosures

cc: John W. Homan, Deputy Attorney General, Natural Resources Division  
Tim Luke, Idaho Department of Water Resources  
Austin Moses, District No. 11 Treasurer  
Daniel E. Williams, Huntley Park LLP

**AFFIDAVIT OF CONNELLY K. BALDWIN**

State of Utah

County of SALT LAKE

BEFORE ME, the undersigned Notary, CLAUDIA CONDRE, on this 25 day of JANUARY, 2007, personally appeared Connely K. Baldwin, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

1. I, Connely K. Baldwin, am an employee of PacifiCorp Energy ("PacifiCorp" or "the Company") where I currently serve as a hydrologist. In this capacity, I oversee the Company's compliance with certain water right obligations, and I serve as a Company representative to Idaho Water District No. 11 ("the District"). As the Company's representative to the District I have communicated directly with Mr. Pete Peterson, District watermaster, and Mr. Tim Luke, Idaho Department of Water Resources, and possess firsthand knowledge of the facts and communications discussed herein.

2. In early March, 2005, just prior to the beginning of the 2005 irrigation season, Mr. Peterson called me and stated that he would resign if he did not receive a raise of \$10,000 for the 2005 District budget year (February 2005 to February 2006). I communicated Mr. Peterson's demand to the District Advisory Committee and I scheduled a meeting with the Advisory Committee to discuss this situation. Prior to the Advisory Committee meeting, about two to three weeks following Mr. Peterson's initial communication with me, Mr. Peterson informed me that he would not resign if the money budgeted by the District for an assistant watermaster could be used to purchase a Global Positioning System ("GPS") device, and to complete an inventory of water diversions

within the District. At the Advisory Committee meeting, I conveyed Mr. Peterson's request to the Advisory Committee. The Advisory Committee approved Mr. Peterson's proposed use of District money. Despite repeated requests, Mr. Peterson has not provided the District with evidence that he has completed the diversion inventory.

3. In January, 2006, prior to the District's February 7, 2006, annual meeting, I discovered that Mr. Peterson had requested a salary increase nearly double the amount he had requested in March, 2005. No agreement was reached on Mr. Peterson's requested salary increase prior to the District's February 6, 2006 annual meeting. The Advisory Committee was empowered by the District to select a watermaster and to establish an appropriate salary that did not exceed the District's budget. Subsequent negotiations between the District and Mr. Peterson resulted in a substantial salary increase in Mr. Peterson's 2006 salary.

4. In an attempt to consolidate expense payments and to permit the purchase of fuel at lower costs, in 2006 PacifiCorp provided the District with an advance payment of \$13,250 - an amount equal to Mr. Peterson's budgeted expenses for the 2006 irrigation season apportioned to PacifiCorp. This advance payment was paid directly to Mr. Peterson by the District Treasurer, Mr. Gerald Brown, with the express understanding that valid expenses incurred by Mr. Peterson during the 2006 irrigation season would be subtracted from this advance expense payment. A copy of communications to Mr. Peterson regarding this matter are attached as **Exhibit A** to this Affidavit. Based upon these and other communications, Mr. Peterson knew, or should have known, that his actual expenses, including vehicle mileage, were to be billed against PacifiCorp's advance payment.

5. On June 7, 2006, I received a phone call from Mr. Peterson in which he stated that he would resign as District #11 watermaster if his expenses were not paid as he requested. Upon further investigation, I discovered that he was in fact requesting reimbursement for both vehicle mileage at the Internal Revenue Service ("IRS") mileage rate, and certain direct vehicle expenses, including vehicle lease payments and gasoline. I arranged for a meeting of the District Advisory Committee, and such a meeting was held June 15, 2006. At the June 15, 2006, meeting I explained the apparent double-billing of vehicle expenses by Mr. Peterson. I stated PacifiCorp's desire that District funds be appropriately used in accordance with standard business practice and IRS requirements. Some members of the Advisory Committee understood my concern, but in the end all of the non-PacifiCorp members of the Advisory Committee insisted that expenses be paid "as they had historically been paid."

6. Due to Mr. Peterson's insistence that his expenses be paid "as they had historically been paid" in conflict with standard business practices, and the conflicting recommendations of the Advisory Committee, the District Treasurer, Gerald Brown, resigned his position on August 7, 2006.

7. For a period of approximately three weeks beginning on or about August 8, 2006, Mr. Peterson informed Mr. Luke, Idaho Department of Water Resources, that Mr. Peterson no longer intended to carry out his duties as watermaster. These statements were subsequently relayed to me by Mr. Luke. Mr. Peterson also informed Mr. Luke that he was not traveling to designated headgates and monitoring diversions or keeping flow records in accordance with his responsibilities, and that he had no intent to do so. Finally,

Mr. Peterson informed Mr. Luke that he had been estimating diversion rates at District locations instead of visiting the diversion points to personally verify diversion rates.

8. I have personally reviewed expense statements submitted by Mr. Peterson to PacifiCorp for reimbursement which are attached as **Exhibit B** to this Affidavit.

Expense statements for the months of April, May, and June, 2006, note unusually high vehicle mileage in these months. The June, 2006, expense statement indicates that Mr. Peterson traveled over 4,000 miles during the performance of his duties, but the expense statement provides no explanation or justification for this travel. Similarly, the April and May, 2006, expense statements report over 3,000 miles traveled with no explanation for this level of travel.

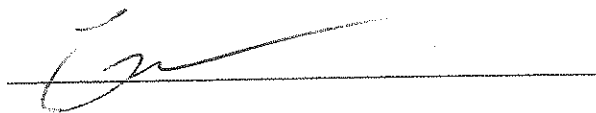
9. Mr. Peterson made several statements to me in 2005 and 2006 expressing his intent to resign his position as District watermaster. I spoke on several occasions with Mr. Luke about this situation. Based upon my discussions with Mr. Luke, I understand that on more than one occasion in 2005 and 2006 Mr. Peterson told Mr. Luke that he had resigned, or intended to resign, his position, and that he no longer wished to serve as District watermaster.

10. On January 5, 2007, I requested that Austin L. Moses, District Treasurer, provide me with records indicating advance payments made by the District to Mr. Peterson for his 2006 expenses. Mr. Moses faxed me a copy of District records showing a payment to Mr. Peterson on April 5, 2006 in the amount of \$13,250. A copy of this record is attached as **Exhibit C** to this Affidavit. These records also show deductions from the advance for expenses claimed by Mr. Peterson after April 5, 2006, with the last deduction occurring on August 7, 2006. This District record indicates that Mr. Peterson has been



paid about \$7,975.00 more than he has claimed in expenses, indicating that Mr. Peterson may owe the District a refund.

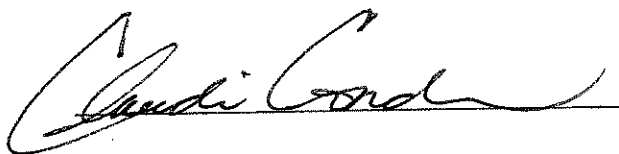
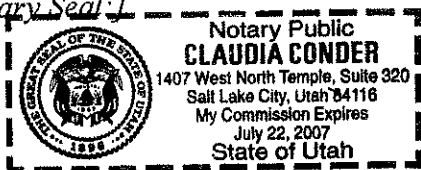
Under penalty of perjury I declare that I have examined the above statements made by me and to the best of my knowledge and belief each and all are true and correct.



Connely K. Baldwin, PacifiCorp  
1407 West North Temple, Suite 210  
Salt Lake City, UT 84116  
Phone (801) 220-4636

Subscribed and sworn to before me, this 25 day of January, 2007.

[Notary Seal]



NOTARY PUBLIC

My commission expires: 22 July, 20 07.

## EXHIBIT A

**GERALD L. BROWN**  
CERTIFIED PUBLIC ACCOUNTANT

VOICE (208) 547-3305

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

FAX (208) 547-3306

Member of American Institute of CPA'S and Idaho Society of CPA'S

May 30, 2006

Pete Peterson  
P.O. Box 349  
Preston, ID 83263

Pete,

I am in the process of getting everything to IDWR. I did not end up with a copy of the Water Master Report. Would you mind sending me a copy?

I am also enclosing an Oath of Office form. Please sign, have it notarized and mail back to me.

It was my understanding that the \$13,250 that was advanced to you earlier was done so that you could purchase fuel while it was cheaper. Additionally, I thought this was to be applied against expense reports each month on an equal basis of \$1,325 per month since we had ten months left in the year. I have discussed this with Connely and this was his understanding also.

I have talked to two different accounting firms about doing the audit. Both of them will require expense reports that have copies of the documentation to back them up. For mileage, a log book showing the date, number of miles driven and a brief description of the business purpose will be needed. Copies of documents to back up all other expenses need to be provided to us. I would like to see that provided to us on a monthly basis. We also need to get caught up on the three past months. Make sure to include all expenses for both the supplemental water and the water district. If possible it would be nice to have some indication of what is for water district and what is for supplemental water.

I have reviewed the IRS requirements for expense reimbursements and by doing the reports as outlined in the above paragraph, the water district will not be required to issue you a 1099 for the entire amount reimbursed to you.

If the advisory board wishes me to handle this any differently than as I have outlined above, I would appreciate them letting me know.

cc: Lee Ream  
Joe Larson  
Dean Mathews  
Connely Baldwin

Sincerely yours,

A handwritten signature in cursive script, appearing to read "G. Brown".

Gerald L. Brown,  
Certified Public Accountant

**GERALD L. BROWN**  
CERTIFIED PUBLIC ACCOUNTANT

VOICE (208) 547-3305

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

FAX (208) 547-3306

Member of American Institute of CPA'S and Idaho Society of CPA'S

June 7, 2006

Water District 11 Advisory Committee

I previously copied you on a letter to Pete concerning payment of Pete's expenses. He was advanced \$13,250. (this amount is the amount supplied by the power company to cover the supplemental water costs) so that he could purchase fuel while it was lower than it would be during the summer. It was my understanding that this \$13,250 would be deducted at the rate of \$1,325 per month for the next ten months. I think Pete feels that this is just extra money above and beyond his expenses for the District. In the past this has not been accounted for with receipts and now that we are requiring this he has taken opposition to it.

For the past two months Pete has submitted his expense sheet and we have deducted \$1,325 in April and \$1,350 in May. We were in error by \$25 in May which we intend to make up in June.

Pete has requested that we reimburse these two amounts to him. I am enclosing a transcription of a message he left on my answering machine last Friday. This was after he read my letter.

I would appreciate written instructions as to what the advisory board desires me to do concerning this issue. I am not in a situation here that I enjoy nor wish to continue. Without resolution of this situation I may elect to resign as the "secretary/treasurer".

Thank you for your consideration,

Sincerely yours,



Gerald L. Brown,  
Certified Public Accountant

## **EXHIBIT B**

**STATEMENT**From Pete Peterson4/28/2006To Water Dist. # 11

Address \_\_\_\_\_

City \_\_\_\_\_

Terms April Exp

meals & motel	147.83
mileage 3105 @ .45	1381.72
S & P	12.70
PHONE	172.60
OFFICE Rent	250.00
WAGES	3,500.00
	<b>\$ 5464.85</b>

# STATEMENT

From Pete Peterson

TO Water Dist. #1 <sup>5/31</sup> 2006

Address \_\_\_\_\_

City: \_\_\_\_\_

Terms MOY EXP

meal & motel	86 52
mileage 342.5 x .445	152.11
S & P	17 20
phone	132.45
Office Rent	250 00
WAGES	3,900.00
	\$ 550.29
bal. April	\$ 1350.00



From Pete Peterson

June 30 2006

To Water Dist. #11

Address \_\_\_\_\_

City \_\_\_\_\_

Terms Trade Exp.

meals & make/	76.20
miling & 4211 @ .45	183.89
Supplies & postage	12.50
phone	107.74
office Rent	250.00
Wages	3,510.00
	\$ 580.93

Pd 7-6-06

## EXHIBIT C

Austin L. Moses CPA PC  
*Certified Public Accountant*

800 West Judicial  
Blackfoot, Idaho 83221  
(208) 785-3366

240 South Main  
Soda Springs, Idaho 83276  
(208) 547-2355

E-mail: mosescpa@dedi.net

FAX TRANSMITTAL

Date 1-5-07

To: Candely Baldwin

Fax #: 801 220-4748

Number pages: 3 (Including this page)

From: Austin L. Moses Fax # (208) 785-3366

Contents: Advance to Pete Petersen

Comments The first sheet shows the check  
register listing the check sent to Pete.  
The second sheet shows the expense account  
detail, starting with the check paid to Pete,  
then the monthly deductions from the advance.

## WATER DISTRICT #11 BEAR RIVER

01/03/2007

Register: Cash in Checking - Ireland Bank

From 04/01/2006 through 04/30/2006

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
04/06/2006			Undeposited Funds	Deposit		X	25,000.00	29,725.73
04/06/2006	1831	Gerald Brown	Accounts Payable		7,000.00	X		22,725.73
04/06/2006	1832	Peterson, Peter	-split-		2,809.00	X		19,916.73
04/06/2006	1833	Peterson, Peter	-split-		1,001.68	X		18,915.05
04/06/2006	1834	Gerald Brown	Accounting and Legal		175.00	X		18,740.05
04/06/2006	1835	State Ins. Fund	Insurance - WC		642.00	X		18,098.05
04/06/2006	1836	Mgrs Group Ins.	Insurance - Health		667.01	X		17,431.04
04/06/2006	1837	PERSI	Retirement		713.65	X		16,717.39
04/06/2006	1838	Ireland Bank	Taxes - Payroll		535.50	X		16,181.89
04/06/2006	1839	Rearm - Crockett	Bear Lake County Wat...		72.72			16,109.17
04/06/2006	1840	Riverdale Irrigation	Franklin County Water...		2.11	X		16,107.06
04/06/2006	1841	Dingle Irrigation	Bear Lake County Wat...		129.80	X		15,977.26
04/06/2006	1842	Black Onor Irrig.	Bear Lake County Wat...		169.69			15,807.57
04/06/2006	1843	Peg Leg Island Irriga...	Bear Lake County Wat...		28.56	X		15,779.01
04/06/2006	1844	Peterson, Peter	-split- <i>Advance</i>		13,250.00	X		2,529.01
04/28/2006			-split-	Deposit		X	7,881.74	10,410.75
04/28/2006	1845	Peterson, Peter	-split-		639.85	X		9,770.90
04/28/2006	1846	Peterson, Peter	-split-		639.85	X		9,131.05
04/28/2006	1847	Gerald Brown	Accounting and Legal		175.00	X		8,956.05
04/28/2006	1848	Ireland Bank	Taxes - Payroll		535.50	X		8,420.55
04/28/2006	1849	Mgrs Group Ins.	Insurance - Health		667.01	X		7,753.54
04/28/2006	1850	PERSI	Retirement		713.65	X		7,039.89
04/28/2006	1851	Peterson, Peter	-split-		2,809.00	X		4,230.89

8:31 AM

01/05/07

Accrual Basis

**WATER DISTRICT #11 BEAR RIVER**  
**Transaction Detail By Account**  
 February 2006 through January 2007

Type	Date	Num	Name	Memo	Clr	Split	Amount
<b>Stored Water Expenses</b>							
Check	04/05/2006	1844	Peterson, Peter	<i>Advance paid</i>		Cash in Check...	13,250.00
Check	04/28/2006	1845	Peterson, Peter			Cash in Check...	-1,325.00
Check	04/28/2006	1846	Peterson, Peter			Cash in Check...	-1,325.00
Check	04/28/2006	1848	Peterson, Peter			Cash in Check...	0.00
Check	05/31/2006	1854	Peterson, Peter			Cash in Check...	-1,350.00
Check	07/22/2006	1864	Peterson, Peter			Cash in Check...	-1,275.00
Check	07/22/2006	1864	Peterson, Peter			Cash in Check...	1,325.00
Check	08/07/2006	1866	Peterson, Peter			Cash in Check...	-1,325.00
Check	08/07/2006	1866	Peterson, Peter			Cash in Check...	0.00
Total Stored Water Expenses							7,975.00
<b>TOTAL</b>							<i>Remaining Advance</i> 7,975.00