

JUSTIN R. SEAMONS

ATTORNEY AT LAW

Falls Professional Center

1201 Falls Avenue East, Suite 22  
Twin Falls, Idaho 83301

Office: (208) 736-0075  
Facsimile: (208) 733-2573  
Residence: (208) 733-3892

April 21, 1994

SENT VIA FACSIMILE

Tim Luke  
1301 North Orchard Street  
Statehouse Mail  
Boise, ID 83720-9000

Re: Devil Creek Ranch, Inc.

Dear Mr. Luke:

I have prepared this letter to confirm the receipt of your correspondence to Jack Eastman, dated April 20, 1994. The last sentence on the first page of your correspondence states the following:

I do not consider Mr. Seamons' letter to represent a call for watermaster services as required under Section 42-608, Idaho Code.

As you know, Section 42-608 does not require "a call for watermaster services", instead, it requires the submission of a written application to the Department of Water Resources of the state of Idaho (IDWR), "stating that there is a necessity for the use and control of the waters of such district."

Devil Creek Ranch believes that my letter, dated April 5, 1994, complies with the requirements of Section 42-608; if and to the extent that it does not comply with the requirements of Section 42-608, application is respectfully made for the immediate delivery of Devil Creek Ranch's water because "there is a necessity for the use and control of the waters" of Water District No. 47-C. Devil Creek Ranch agrees with your observation on April 15, 1994, that its fields are "fairly dry for this time of year"; in fact, Devil Creek Ranch believes that its fields are too dry for this time of year.

The second paragraph on the second page of your correspondence states that I must send a copy of this letter--that is, this application for the immediate delivery of Devil Creek Ranch's water, to IDWR and Mr. Eastman. Although Section 42-608 only requires the submission of an application for the delivery of water to IDWR, I have mailed a copy of this letter to Mr. Eastman.

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The third paragraph on the second page of your letter suggests that Mr. Eastman does not have to deliver Devil Creek Ranch's water unless and until he takes the oath of office. Each of the following three points is noteworthy:

1. The duty to immediately deliver Devil Creek Ranch's water is IDWR's duty, not Mr. Eastman's duty. Idaho Code Section 42-602 states, in pertinent part, the following:

It shall be the duty of the director of the department of water resources to have immediate direction and control of the distribution of water.

Mr. Eastman's duty, as a watermaster, is simply to distribute the water to the users in Water District No. 47-C "according to the prior rights of each respectively."

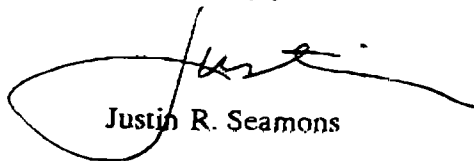
2. Idaho Code Section 42-608(4) states that a watermaster may "serve throughout the year." On April 14, 1994, James Stanton received the Minutes of the Annual Meeting of Water District No. 47-C, dated March 7, 1994. The third page of the Minutes states that Mr. Eastman is the watermaster of Water District No. 47-C from March 15, 1994, through March 15, 1995. Although Mr. Stanton provided the paperwork for the oath of office to Mr. Eastman on April 15, 1994, Mr. Eastman has not returned it.

3. Although Mr. Eastman has not returned the paperwork for the oath of office to Mr. Stanton, he has begun to work.

The upshot of the foregoing is that Devil Creek Ranch respectfully demands the immediate delivery of its water, notwithstanding the status of Mr. Eastman's paperwork for the oath of office, for the duty to deliver the water is IDWR's duty, Mr. Eastman is the watermaster for Water District No. 47-C at this time, and Mr. Eastman has begun to work.

Please let me know if you have any questions or comments.

Respectfully yours,



Justin R. Seamons

cc: Devil Creek Ranch, Inc.  
Jack Eastman