



# 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](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

June 3, 2004

James R Kruse  
Rocking Question Ranch, LLC  
2140 Kilgore Route  
Dubois, ID 83423

Rocking Question Ranch, LLC  
50 West Broadway, Eighth Floor  
Salt Lake City, UT 84101

Re: Siddoway and Hamilton Water Rights on Knotwell/Hirschi/Bennett Ditch; Your Correspondence  
Dated June 1, 2004

Dear Mr. Kruse,

I have reviewed your correspondence dated June 1, 2004 requesting that I instruct the watermaster of Water District 31 not to deliver certain water rights owned by Max Siddoway and Jack Hamilton from East Camas Creek to the lawful point of diversion described under those rights. The rights in question are 31-0053A, 31-0053B, 31-0054B, 31-0055B, and 31-0055C. The Presiding Judge of the Snake River Basin Adjudication (SRBA) has issued partial decrees for these water rights. The legal point of diversion for these water rights, as evidenced by the partial decrees, is the SENWNW of Section 32, T13N, R39E. This point of diversion is the heading of the Knotwell/Hirschi/Bennett Ditch referenced in your letter.

Over the past year I have generally instructed the watermaster of Water District 31, Greg Shenton, to deliver water in accordance with partial decrees issued by the SRBA Presiding Judge. Although SRBA Special Master Bilyeu factually found that Mr. Knotwell provided and later revoked access to the Knotwell/Hirschi/Bennett Ditch, the Special Master nonetheless recommended that the above referenced water rights be decreed with the point of diversion located in the SENWNW of Section 32, T13N, R39E, or the Knotwell/Hirschi/Bennett Ditch. The SRBA Presiding Judge issued an order adopting the recommendation of the Special Master. I therefore cannot instruct the watermaster to not deliver the above referenced Siddoway and Hamilton rights to the Knotwell/Hirschi/Bennett Ditch. Your request that IDWR reverse instructions to the watermaster to deliver water rights in accordance with the partial decrees is denied.

Respectfully,

Tim Luke

Manager, Water Distribution Section

Cc: Greg Shenton, Watermaster, Water District 31  
IDWR Eastern Region  
David Hirschi  
Joe Knotwell  
Howard Frederiksen  
Horace Frederiksen  
Max Siddoway  
Jack Hamilton

Greg Shenton  
PO Box 33  
Dubois, ID 83423

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Max Siddoway  
2368 E 100 N  
TETON ID 83451

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David Hirsch  
1749 E 100 N  
Rexburg ID  
83440

Mailed  
JUN 04 2004  
Department of Water Resources

Jack Hamilton  
4969 N 5 E  
IDAHO FALLS ID  
83401

Joe Knotwell  
Box 133  
Dubois ID 83423

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Horace Frederiksen  
PO Box 402

Dubois ID 83423  
Howard Frederiksen  
C/O HORACE FREDERIKSEN  
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# THE ROCKING QUESTION RANCH

2140 Kilgore Route  
Dubois, Idaho 83423  
Telephone: 208-778-5322

RECEIVED

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DEPARTMENT OF  
WATER RESOURCES

June 1, 2004

VIA OVERNIGHT COURIER

Mr. Tim Luke  
Water Distribution Department  
Idaho Department of Water Resources  
1301 North Orchard Street  
Boise, ID 83706

Re: Water Right No. 31-0053A in the name of Max Siddoway  
Water Right No. 31-0053B in the name of Jack R. and Lela M. Hamilton  
Water Right No. 31-0054B in the name of Jack R. and Lela M. Hamilton  
Water Right No. 31-0055B in the name of Jack R. and Lela M. Hamilton  
Water Right No. 31-0055C in the name of Max Siddoway

Dear Mr. Luke:

I am advised by Mr. Greg Shenton, Watermaster for District 31, that you have instructed him to deliver water under the above-referenced water rights to the Hamiltons and Mr. Siddoway into the so-called Knotwell/Hirschi/Bennett ditch, which was the subject in the Snake River Basin Adjudication, case no. 39576, and the order of Roger S. Burdick, Presiding Judge, dated February 6, 2003, based on a Special Master's Report and Recommendation dated December 24, 2002, with which you are familiar.

I call your attention to page 3 of Special Master Bilyeu's findings in which she states that Messrs. Hamilton and Siddoway had temporary access to the Knotwell/Hirschi/Bennett ditch pursuant to permission granted by Mr. Knotwell, but that such permission was revoked. Subsequent access by the Hamiltons and Mr. Siddoway to the Knotwell/Hirschi/Bennett ditch was pursuant to instructions from the Idaho Department of Water Resources. As such, the Hamiltons and Mr. Siddoway gained no rights in the Knotwell/Hirschi/Bennett ditch. We consider this substantive finding on the merits by Special Master Bilyeu, after a full evidentiary hearing and opportunities for argument by both parties, to be binding on the parties as the law of the case to the effect that Messrs. Hamilton and Siddoway have no rights to the Knotwell/Hirschi/Bennett ditch. Therefore, I request that you withdraw your previous instructions to Mr. Shenton to deliver the Hamiltons' and Mr. Siddoway's water into the Knotwell/Hirschi/Bennett ditch. I consider any use or enjoyment by the Hamiltons or Mr. Siddoway of the Knotwell/Hirschi/Bennett ditch as being an unlawful trespass. The owners of the Knotwell/Hirschi/Bennett ditch are entitled to maintain such ditch without interference and to preserve and protect their property interests.

This date, I am also advising the Hamiltons and Mr. Siddoway to remove immediately any and all structures placed by them in the Knotwell/Hirschi/Bennett ditch to permit unimpeded flow of the water through the ditch to Joe Knotwell, David Hirschi and The Rocking Question Ranch, who together are the exclusive owners of the ditch.

# THE ROCKING QUESTION RANCH

Mr. Tim Luke  
Water Distribution Department  
Idaho Department of Water Resources  
June 1, 2004  
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Please provide me with a copy of your corrected instructions to Mr. Shenton in accordance with the foregoing. If I do not receive that confirmation on or before June 10, 2004, I shall consider such failure as a refusal to do so and shall be free to take such action as we may deem appropriate to preserve and protect our property interests without further notice or demand.

Sincerely

THE ROCKING QUESTION RANCH

A handwritten signature in black ink, appearing to read "James R. Kruse", written over the printed name.

James R. Kruse, Member

cc: Greg Shenton, Watermaster  
Blair Grover, Esq.  
Mr. David Hirschi  
Mr. Joe Knotwell  
Mr. Howard Frederiksen  
Mr. Horace Frederiksen