



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
LYNN GRANDALL, WATERMASTER
IDAHO FALLS, IDAHO

WATER DISTRICT NO. 36

C.A. Bottolfsen
~~G. BEN ROSS~~, GOVERNOR
~~R. W. FARIS~~, COMMISSIONER
James Spofford

July 20, 1939

Mr. James L. Spofford
Commissioner of Reclamation
Boise, Idaho.

Dear Mr. Spofford:

The water users on Teton River in Idaho are objecting to a practice being followed on several tributary creeks in Teton Basin, Wyoming, particularly Teton Creek.

It appears that various Idaho water users have acquired rights in ditches that divert in Wyoming and irrigate some Wyoming lands. The Idaho users carry their water across the State line in laterals from such ditches and thereby escape regulation according to Idaho priorities. The Idaho users on lower Teton River have asked me to write you and request that you ask the Wyoming State Engineer to make an investigation of this situation to see if something can be done so that the Idaho users who divert in Wyoming can be compelled to abide by the same priorities in force among such users who divert in Idaho.

Unless the practice is stopped it will probably lead to further connivance between Idaho and Wyoming neighbors on these creeks, extending the same practice to other nearby Idaho lands.

Very truly yours,

Lynn Grandall

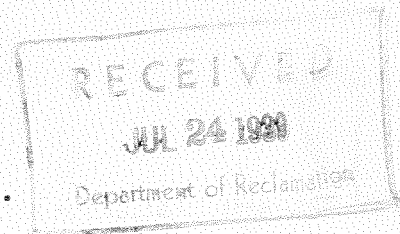
Watermaster.

cc: Frank A. Miller, St. Anthony, Ida.
Eph Ricks, Sugar, Ida.



*Intro - State
#36*

F. A. MILLER
COUNSELOR AND ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO



July 21, 1939.

Honorable James L. Spofford,
Commissioner of Reclamation,
Boise, Idaho.

Dear Mr. Spofford:

By way of introduction, will say that I am the present chairman of what is known as the Committee of Nine-Water District No. 36, Idaho, and have also been acting as attorney for many of the lower users on the Teton River.

These water users, through their canal corporations, several years ago, instituted a suit in the United States District Court of Wyoming for an adjudication of the rights of the various users on the Teton River particularly, which heads in Wyoming, and along which a number of Wyoming residents divert and use water before it reaches into Idaho. There are some 1,500 acres of land cultivated just over the Idaho line supplied by water from Teton Creek.

This case has been tried and submitted to District Judge Kennedy, the United States District Judge for the State of Wyoming; all of the testimony, exhibits and proof having been completed and the case submitted in January a year ago. Judge Kennedy has withheld a decision in the case, due to the fact that the Supreme Court of the United States, about the time this case was submitted to him, handed down a decision up-holding a compact that was entered into and completed between the states of Colorado and New Mexico in what is known as the Hinderlider v. LaPlata River and Cherry Creek Ditch Company, reported in 58 Sup. Ct. Reporter 803.

The Judge is withholding a decision on the ground that regardless of what he might hold in the case, it might be upset by the action of the then existing Compact Commission authorized by a Resolution of Congress; As stated, a decision has not been handed down up to this time because of the fact that there still exists a Idaho-Wyoming Commission, even though nothing has been accomplished as to an agreement establishing or agreeing upon the rights of the users on the inter-state streams affected under the compact agreement. These compacts, when ratified under the Supreme Court decision, replaced or superceded any court adjudications.

During the pendency of the Teton River case the Wyoming users, through their attorneys, have inferred to Judge Kennedy that the Idaho users have not made any demand upon the State Engineer of Wyoming or any Control Board of Wyoming to enforce the rights of the Wyoming users and restrict them to the amount or quantity of water allotted to them by the Board of Control of Wyoming or their rights under the Wyoming statute; there had been proof that the Wyoming users had wasted quantities of water

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COUNSELOR AND ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

and had connived at various uses to deprive the lower users of their rights.

The Lower Teton River users, and particularly the plaintiffs in the action against the Wyoming users are most desirous of having the Compact Commission fix the rights of the users or be discharged; they wish the rights fixed by some commission or tribunal. The reasons for this are, - The Wyoming users divert the waters of Teton Creek in Wyoming, carry these waters through their respective lands, and either sell, lease or give these waters to the Idaho users across the line. Particularly has this been true in the past with companies engaged in the raising of green peas in Teton County, Idaho, on lands near the state boundary line.

A number of the canal companies who divert water in Wyoming for use on Idaho lands have been enjoined from any such practice, but there are a great number of individuals owning land who have not been enjoined in this manner, and perhaps an injunction suit would be futile because a claim would undoubtedly be set up that they were using waste waters from the Wyoming lands.

I have this week investigated the situation along Teton Creek, and find that the Wyoming land owners are diverting three times as much water as would be accorded them under the Wyoming statute, regardless or whether they have been awarded water or not, and a great deal of this water is being conveyed across and over the lands of Wyoming users on to Idaho lands, some of which are as much as three miles or more from the boundary line.

From the fact that the Wyoming defendants attempted to make something of the fact that no demand had been made for the regulation in Wyoming of the waters of Teton Creek, we wish very much that your office would ask an immediate investigation by the State Engineer of Wyoming and a regulation of the water and a correction of the abuses that are being practiced along the Idaho-Wyoming boundary line. If no immediate agreement under the compact is to be had or an adjudication made, the Idaho users on the Lower Teton River will institute proceedings against the land owners in Wyoming along Teton Creek. These Wyoming users must come into Idaho, as there are no roads leading to their properties except those of Idaho. Service can be made upon them in the Idaho courts, and while the Idaho courts might not effect an adjudication, whenever the Wyoming users violate the terms of any award made by the Idaho courts these Wyoming users can be punished for contempt, and this remedy will be resorted to if it is finally determined that such procedure must be taken.

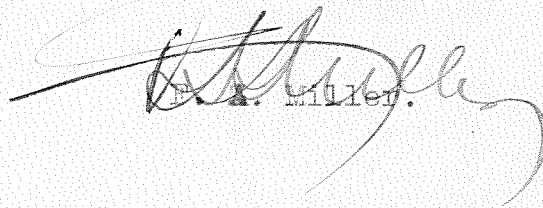
I have written at much length in order that you may

F. A. MILLER
COUNSELOR AND ATTORNEY-AT-LAW
ST. ANTHONY, IDAHO

have some understanding of the position of the Idaho users and I might add that all of the waters of the Teton River were appropriated and the Teton users have an adjudication from the Idaho court covering all of these waters, of a date of priority long prior to any settlement upon the interstate stream in Wyoming, and these Idaho users suffer every year from scarcity of irrigation water, and to see it wasted and diverted to Wyoming users with rights much inferior to theirs, and the further unlawful diversion through the connivance of Wyoming users to Idaho lands has become a serious and aggravating question with Lower Teton River users.

May we have your co-operation in this matter?

Very truly yours,



F. A. Miller.

FAM/z

*Interstate
W.D. # 36 - C*

July 21, 1939

Mr. L. C. BISHOP,
State Engineer,
Cheyenne, Wyoming.

Dear Mr. Bishop:

Today I received a letter from Mr. Lynn Crandall, Special Deputy of this department and Watermaster in Water District No. 36, relative to the misuse of water on the Teton River by Idaho users. Herewith find enclosed a copy of this letter, which is self-explanatory.

While in Salt Lake last month, I discussed briefly with you your attitude relative to the continuance of negotiations between Idaho and Wyoming relative to the distribution of water on the Teton River. Mr. F. L. Davis, an Idaho member of the Commission, residing at Rexburg, Idaho, states that many meetings have been held regarding the discussion of the successful handling and distribution of interstate waters on this stream, and he believes that a satisfactory solution of this problem was in sight before the death of Mr. Simpson, a Wyoming member of this Commission. He advises that someone from Wyoming should be appointed in the place of Mr. John C. Simpson, Deceased.

This office is ever ready to cooperate in working out a satisfactory agreement between the two states, whereby water may be successfully handled and distributed to all water users.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

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#36-C*

July 24, 1939

Mr. F. A. MILLER,
Attorney-At-Law,
St. Anthony, Idaho.

Dear Mr. Miller:

I was very glad to receive your letter of the 21st explaining in detail the present status of the misuse of the distribution of water on the Teton River. I certainly appreciate your letter, as it sets forth the different phases of this compact in a clear and definite manner.

While in Salt Lake in June, I met Mr. Bishop, State Engineer of Wyoming, and discussed this matter with him in some detail, but at that time he had no particular knowledge of the difficulties involved in the distribution of water from the Teton River between the water users of Wyoming and Idaho. I am sure, therefore, that he would be very glad to get this report as set forth in your letter, as I am mailing a copy of the same to him. This office is very anxious to cooperate in working out a satisfactory agreement between the two states, whereby irrigation water may be successfully distributed to all water users.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/jf
encl.

*Interstate
W.D. #36 L*

July 24, 1939

Mr. L. C. BISHOP,
State Engineer,
Cheyenne, Wyoming.

Dear Mr. Bishop:

Since writing you on July 21, relative to the distribution of water on Teton River, I have received additional information from Mr. F. A. Miller, Attorney, at St. Anthony, Idaho, who has been in close touch with this situation for many years. Mr. Miller, in his letter, sets forth very clearly the conflict that arises between the jurisdiction of the court and the final decision of the Idaho-Wyoming Commission.

As stated to you in a former letter, all Idaho members of this Commission are anxious that the Commission be given an opportunity to complete its findings in this matter, but they are unable to act until someone is appointed to fill Mr. Simpson's place.

Knowing that we are both not too well posted relative to this situation, I am very glad that we are able to get this summary from Mr. Miller.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/jf

cc: Eph Ricks, Sugar City,
Judge F. L. Davis, Rexburg,
E. H. Neal, Aberdeen.

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32 C*

August 28, 1939

Mr. L. C. BISHOP,
State Engineer of Wyoming,
Cheyenne, Wyoming.

Dear Mr. Bishop:

Your letter of the 23rd, enclosing the six copies of the agreement entered into between the representatives of Idaho and Wyoming at our recent meeting at Driggs, was received here on Saturday, and your letter of the 26th, enclosing three copies of the tabulation on water rights for Teton Creek, which originates in Wyoming and flows into the Teton River in Idaho, one copy of map of this area, one copy of report of the conditions on the Snake River, Jackson Hole, Wyoming, and the report of the water resources of the Columbia River Basin in Wyoming, by H. T. Person, was received this morning.

I certainly appreciate your promptness and cooperation in supplying these memorandum agreements, various reports and maps, and a copy of the proposed Idaho-Wyoming Compact, covering a summary of conditions in the various sections to be covered by the proposed compact. We will mail copies of this revised outline of proposed Idaho-Wyoming Compact, which has been revised and written by you, to the various interested parties in Idaho at once, with the idea in mind of considering these matters carefully and writing you the opinion of the Idaho representatives to this compact, covering all matters included in the revised outline of proposed Idaho-Wyoming Compact.

This memorandum will reach you in time for these matters to be studied by yourself and the Wyoming interested parties before the date of our Compact meeting at Afton, on the 18th of September. Thanking you for your courtesies and sincere cooperation, I remain,

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/jf