

OCT 31 2013

WATER RESOURCES
WESTERN REGION

October 28, 2013

John Westra and to whom it may concern,

I am responding to the Paul Butrell tort claim. This letter will explain water usage and actions taken in regards to The Little Canyon Creek in the months between March 31 and October 3, 2013.

The 2013 water year was very challenging for many reasons. As we know, many places across Idaho are in a drought, Little Canyon Creek is no different. I was faced with many challenges during my first year as a water master. Having little to no water to manage, made my job even harder.

On March 31, I met with Angie Grimm and Rob Whitney. We went in to Paul Butrell's diversion point head gate. We took a good look at his head gate and how much water was coming down the creek. I pointed out to Rob and Angie that Paul doesn't have a weir, or measuring device. I also pointed out that the way Paul's headgate was designed and built presents other challenges that I will detail later. Paul was taking 100% of the water coming down the creek. One of the challenges Paul's headgate creates is that it sits lower than the creek. This becomes problematic because it allows him to take water that is not rightfully his. To correct this we made an adjustment on Paul's headgate to allow water to flow down the creek for stock water rights that were being withheld as a result of the headgate.

On April 1, I went to Paul's headgate and shut it down to only allow around 25 inches of water past. This was a guess due to Paul not having a measurement device in his ditch. Water rights: 12198, 1297, 12196, 12191, 12193, 200A, 12189, 12187, 371B, 297, 12024, 295, 294, 298, 2107A, and 2107B were all called on either March 31 or on the morning of April 1. All of these water rights are Senior to Paul's. Water rights 2228A and 222B were also called upon. The water rights excluding 2228A and 2228B add up to more than 210 inches. 222A and 222B are more than 600 inches. There was approximately 350-450 inches coming down the creek at this time. On April 10 water right 371A and 372 were called on. That's around 120 inches. This water right is also Senior to Paul's. Paul has 50 inches of water senior to his water right 308 which he did not call out on. The accumulated users on little canyon creek senior to water right 308 is around 800 inches. This was a year that most water users wanted their water.

On April 11, I talked with Paul over the phone about what had happened. Paul knows that I went up and adjusted his headgate that afternoon. There were a few water users that had not started their water. So I went back up to Paul's headgate and sent more water down his ditch. Due to the fact that Paul does not have a measurement device, I again had to guess on how much he was receiving. In those 10 days Trail/Blair Reservoir took water. This would be water right 2228 A and B. For only 10 days Trail/Blair Reservoir took around 75-125 inches per day. Paul claims that Trail/Blair Reservoir took 300 acre feet. This calculation is completely implausible. If what Paul claims were to be true Trail Ranches would have had to take 180 inches for 40 days to get to 300 acre feet. Considering the years water supply this would have been highly unlikely.

On April 30, I talked with John Westra. I went back up to Paul's headgate and made sure he was taking any available excess water flow. By this time I had

already ran out of call outs, yet I continued to serve the users of Little Canyon Creek. In this case, especially Paul.

I have included two pictures that I took on May 28. One picture is of Little Canyon Creek with no water in it. The other picture is a good 100 to 150 inches of water flowing into Paul's reservoir. For four weeks Paul took 100 to 150 inches of water that was called on by senior water users that was not being used.

On May 29, I went up to Paul's diversion point and shut his headgate off due to the fact that there was not sufficient flow to serve senior water users. Little Canyon Creek did not have sufficient water flow this year. There was not a day that I saw that the flow of the creek ran over 500 inches.

In my opinion as a water master, I feel that Paul built this head gate incorrectly. When water users call for their water, Paul's headgate has to be turned down to force water into Little Canyon Creek. If and when the flow of water changes, Paul's headgate again has to be adjusted. If the flow of water increases due to rain fall or higher temperatures the excess water flows down the creek. If there is less water, Paul's headgate must be closed to accommodate the needs of priority water users. The flow of Little Canyon Creek can change hourly due to temperature and weather conditions. The water master should not have to sit at Paul's diversion point and make changes constantly to suffice Paul's water right. If Paul's diversion point was built similar to others that share the creek such as the design of the Trail/Blair diversion point, some of these problems would solve themselves. The design of the Trail/Blair diversion allows the water master to regulate the water by adjusting what comes down the creek. If excess water flows down the creek the Trail/Blair ditch takes the excess to the reservoir rather than waste it and let it flow to the river. Trail Ranches tries very hard to beneficially use the water that flows down the creek for beneficial use. In good water years, Mr. Butrell floods out low lying areas around Morrows reservoir. This water can not be used for anything. It is also well know that Morrow's Reservoir leaks a good amount of water through out the year. Paul is a good candidate of not using water for beneficial use.

All reservoirs filling off the Bennett Mountain ran out of water early or didn't fill at all. Trail/Blair Reservoir only filled to about 10% with around an 8% carry over. Trail Ranches only irrigated one 107 acre pivot of wheat only a few times. That crop only made about 35 bushels per acre. On an average water year that pivot would usually make 110 bushels per acre. Normally Trail Ranches raises 214 acres of wheat and 107 of sugar beets. They ran out of water on May 16, 2013. I also spoke with Mr. Reynolds who owns and operates Bennett Creek Farms. They also fill off the same side of Bennett Mountain and Morrow and Trail/Blair reservoirs. Mr. Reynolds told me that they filled around 20% of their storage. They didn't have enough water to raise their potatoes or beans this year. They only had enough water for one cutting of alfalfa. Mountain Home Reservoir ran out of water around the 5th of July. All these reservoirs fill from snow pack on Bennett Mountain. As you can see the water shortage problems was not exclusive to Little Canyon Creek. On August 17, Paul was still irrigating and had water in his reservoir. This was well past when all other reservoirs went dry.

If accurately tracking water flow is a priority of Paul's, then he needs to be proactive and install the proper equipment to his Diversion point. In doing this it

would help to avoid these discrepancies and save a lot of time. I think it needs to be noted that accessing Paul's headgate is no easy feat. Every trip requires traveling through the very bumpy, rocky, unmaintained desert. It easily takes 20-30 minutes in a 4-wheel drive pick up to navigate the 1 mile long road in the best of conditions. Then a 10 to 15 min hike down rocky terrain. As I said earlier I had already surpassed the minimum number of callouts that a water master is required to perform in this district. I continued to serve all the water users to the best of my ability, including Paul. The bottom line is that there was not enough water in the creek due to a very low water year. Considering all the extra time, attention, and effort I put into my first year as water master dealing with issues involving Paul's head gate, I would've thought he'd be more appreciative.

Record of Call Outs

1. March 31, Rob Whitney and Angie Grimm at Paul's headgate
2. April 1, Adjustment to Paul's headgate
3. April 3, Checked water in creek at Trail/Blair diversion
4. April 5, Phone meeting with IDWR
5. April 7, Checked water coming down the creek at Paul's headgate
6. April 8, Checked water in creek at Trail/Blair diversion
7. April 9, Talked with Teresa McCallum and phone conversation with IDWR
8. April 10, Phone Conversation With IDWR, talked with Paul, Nate Jones made water call
9. April 11, Made adjustment on Paul's headgate
10. April 13, Checked water in creek at Trail/Blair diversion
11. April 14, Adjustment to Paul's headgate
12. April 22, Talked with IDWR, checked creek and went to Pauls headgate
13. April 30, Went to Paul's headgate talked with Allen Crane
14. May 10, talked with Carlene Smith Checked water in creek at end of ditch next to the Gorril residence.
15. May 27, Ryan Johnson called needing water on Ark Properties ground
16. May 28, Took Picture of water in Paul's Ditch and in Creek at Trail/Blair Div
17. May 29, Paul's headgate shut off
18. October 3, Phone Call IDWR

Rusty Trail

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