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May 1, 2013

Via E-mail and U.S. Mail

John Westra
Manager, Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: *Demand for delivery of water to Morrow Reservoir – right no. 61-308*

Dear John:

As you requested at our April 29 meeting, I am sending you this letter on behalf of Paul Batruel and Batruel Dairy (together, "Batruel") to demand that the Department instruct the watermaster for Water District 61D (Little Canyon Creek) to take immediate action to deliver additional water to Batruel's reservoir (known as Morrow Reservoir).

At the April 29 meeting, we (together with Mr. Batruel, and Rob Whitney and Steve Lester from your office) discussed how, during significant periods in the months of March and April this year, the watermaster failed to deliver water to Morrow Reservoir under Batruel's water right no. 61-308 when the right was in priority, and instead delivered water to junior priority water rights including right no. 61-2228B (the right associated with Blair Trail Reservoir). As a result of this failure to properly deliver water according to priority, Batruel contends that Morrow Reservoir did not receive the amount of storage water it is entitled to under right no. 61-308, and that is needed for irrigation of crops this season. Batruel estimates that Morrow Reservoir has received approximately 300 acre-feet less water than it would have if the watermaster had properly delivered water under water right no. 61-308, and that this loss of storage water will cause a loss of crops on up to 150 acres this season.

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Please instruct the watermaster to immediately take all actions necessary to deliver available water to Morrow Reservoir including, without limitation, curtailing deliveries to all water rights junior to right no. 61-308, and actively managing deliveries on Little Canyon Creek so that all water not being put to beneficial use under senior water rights is delivered to Morrow Reservoir. In connection with these actions, Batruel expects the watermaster to contact senior water right holders to arrange delivery schedules so that any unused water will be diverted to Morrow Reservoir until the 300 acre-foot shortfall is replaced.

Given the date, time is of the essence. If the Department and the watermaster do not timely respond or Morrow Reservoir fails to receive sufficient water to replace the 300 acre-feet of water it already should have received, Batruel will explore all legal options available including, but not limited to, immediately instituting judicial actions seeking damages and injunctive relief against the Department and the watermaster in his individual and official capacity. Should it be necessary to institute such actions, Batruel will seek an award of attorney fees and costs pursuant to any applicable provision of law.

Your attention to this matter is greatly appreciated. Please feel free to contact this office if you have any questions. We look forward to working with the Department and the watermaster to constructively resolve this matter.

Sincerely,



Michael P. Lawrence

MPI:lkb

cc: Paul Batruel / Batruel Dairy
Steve Lester (via email)
Rob Whitney (via email)
Rusty Trail (via U.S. mail)

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