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November 16, 2007

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DEPARTMENT OF  
WATER RESOURCES

Gary Spackman  
IDAHO DEPT. OF WATER RESOURCES  
322 E. Front St.  
P.O. Box 83720  
Boise ID 83720-0098

Re: **Wegner**, Robin - Water Rights

Dear Mr. Spackman:

In his 11-2-07 letter, Mr. Semanko submits his client has been unfairly treated, both regarding the impoundment of water and delays in processing and the enforcement of measuring devices and controls. While I do not know what Mr. Semanko's motive is, I believe this letter is an appropriate and necessary response.

First is the allegation that it is unfair to accuse Challis of "delays in processing" when the fault lies entirely with Wegner. This is rather curious in light of the fact that Mr. Challis and his attorney cannot be available for a site inspection and hearing until next spring, which is what they represented at the prehearing conference. It is furthermore strange that Mr. Challis believes breaching the pond from which water is not being used would achieve nothing but additional expense.

Second, Mr. Semanko writes about enforcement of measuring devices and locking measures. He contends that his client complied and Wegner did not, and therefore requests an immediate enforcement action and monetary penalties. Wegner has complied with your directive to leave the pond "as is" until after the hearings take place. What is also remarkably absent from every letter from Mr. Semanko is any explanation of how a downstream pond harms

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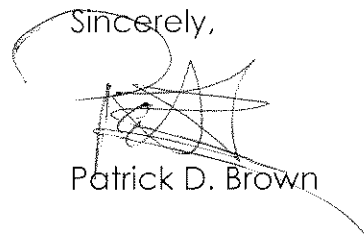
Mr. Challis, or what standing he has to "protect the interests of all water users". Also, to the extent they claim the Wegner uses are contrary to their agreement with Wegner, I look forward to the opportunity of disproving the allegations. Apparently Mr. Semanko and his client believe the department should impose delays to accommodate their hearing requests, but penalize Wegner in the meantime. I trust you will not tolerate such inequitable demands, especially in light of your directive to preserve the status quo until after the hearings.

Furthermore, the fact that they threaten legal action within 30 days if the department does not act immediately is directly contrary to their representations of what should occur, and the time frame in which it should occur, during the prehearing conference. And last, but not least, it is curious Mr. Haynes is now our hearing officer because Mr. Semanko and his client insisted that no one else at IDWR would be appropriate because anyone else would know the history between Mr. Challis, Ms. Wegner, and more general issues raised by Mr. Challis's actions, both privately, and in his capacity as a watermaster, have been inflaming controversies for years. I submit that if they were so concerned about a fair hearing, they would not be sending such accusatory letters to the hearing officer. I further trust the hearing officer will decline to be influenced by such unfounded and general accusations, which, again, we look forward to dispelling at the hearing.

Finally, if the department decides any of these matters should be resolved immediately, my clients and I are happy to participate in the hearing, at your earliest possible convenience. Please let us know how you elect to proceed.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick D. Brown". The signature is stylized with a large, sweeping initial "P" and "B".

Patrick D. Brown

/cb

cc: Norman Semanko  
Robin Wegner