



State of Idaho

DEPARTMENT OF WATER RESOURCES

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PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 13, 1996

Don Rigby
1226 Rigby Rd.
Bancroft, ID 83217

RECEIVED

AUG 15 1996

Department of Water Resources
Eastern Region

Re: Water Rights 29-07636, 29-07637, 29-07001

Dear Mr. Rigby:

I have been reviewing the above referenced water rights for the purpose of matching the wells with the proper water rights. This matching process is part of an effort to assist the water district in developing a data base showing water rights and their appropriate points of diversion along with authorized rates of diversion and annual volumes. This process is an extension of the physical well inventory which IDWR staff and the watermaster made earlier this summer. As you know, wells in the Bancroft-Lund water district are being measured this year so that measured rates of diversion and volume can be compared with water right flow rates and volumes.

Upon reviewing the above rights, I have developed a number of questions regarding irrigated place of use and points of diversions. These questions and concerns are identified below.

- 1) Department records do not list any valid water rights for the well which you have identified as the Pond Well, located in the SE1/4 of Sec. 16, T8S, R40E.
- 2) Department records also do not list any valid water rights for the well which you have identified as Old Faithful #2, located in either the NESE or SENE of Sec 21, T8S, R40E. The well known as Old Faithful #1 is about 100 ft. southeast of this well and appears to be covered by water right 36-07001.
- 3) Water right no. 36-07636 identifies two points of diversion, one in the SESE Sec 21, T8S, R40E, and one in the NESE Sec. 30, T8S R40E. It is my understanding that the well in the SESE of Sec. 21 is that well which you identified as Well #2. It is my understanding that this is the capped artesian well which is not being used. I am not aware of any well which you own in the NESE of Sec. 30. Our records and inventory does show that a well is located in the NESE of SEC 30 but is owned and operated by Monte Yost and Milton Gilbert, aka Golden Grain Farms.

4) The map which you supplied of your systems shows a windshield pivot located in the NESE Sec. 33, T8S R40E, and NWSW Sec 34, T8S R40E. Department records do not list any valid water rights covering this particular acreage.

5) The map which you supplied also shows pivots which are not fully described as irrigated places of use under your ground water rights but appear to be covered by surface water rights or canal shares. Since your system commingles surface water with ground water whereby all the wells and canal pumps deliver water to a common pipe or manifold system, there is a concern that you are irrigating lands with ground water that are not adequately covered by ground water rights. The lands in question are shown as being irrigated by pivots in your map and are described in more detail as follows:

- W1/2 NE1/4, Sec. 21, T8S, R40E
- E1/2 NE1/4, Sec. 28, T8S, R40E
- E1/2 SE1/4, Sec. 28, T8S, R40E
- SW1/4, Sec. 27, T8S, R40E
- E1/2 NE1/4, Sec. 33, T8S, R40E
- W1/2 NW1/4, Sec. 34, T8S, R40E

The map produced by A.A. Hudson and Associates dated May 1995, appears to show additional acreage in sections 16, 20, 29, 30, 31 and 32 that may be irrigated by your ground water wells and not described by your ground water rights.

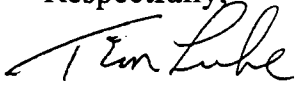
6) The requests for extension of time to file proof of beneficial use which you filed in June of this year for rights 29-07636 and 29-07637 indicate that three wells have been developed and that possibly a fourth well will be developed on the Golden Grain property. The two rights only allow for development of three wells. It does not appear that a fourth well can be developed unless a water right transfer or amendment is approved. The fact that two wells are described under right 29-07636, which has a total diversion rate of only 1.60 cfs, raises some concern about how much total water is being diverted under this right.

The purpose of this letter is to notify you that I have found a number of discrepancies between your water rights and actual developed points of diversion and places of use. I would like to provide you an opportunity to address the above concerns and identify any water rights or factual information which I may have overlooked in my review. I also want to advise you that some of the discrepancies, if accurate, can perhaps be corrected by filing water right transfers and/or amendments. You should also be aware that if land is being irrigated without the benefit of any water right, that the Department will issue a Notice of Violation and Order to Cease and Desist from further diversion of water. Cease and Desist Orders can carry civil penalties of up to \$100 per day for continued violations.

I also wish to notify you that I plan to conduct some field work in the Bancroft area next week. I would like to visit with you at that time to discuss the items raised by this letter.

Please contact me directly at 327-7864 on August 19 to arrange a time and date to review your water rights and irrigation system.

Respectfully,

A handwritten signature in black ink that reads "Tim Luke". The signature is written in a cursive style with a large, sweeping initial "T".

Tim Luke

cc: Wayne Waddoups, Watermaster
Bruce Larsen
Harold Jones, Eastern Region