



State of Idaho

DEPARTMENT OF WATER RESOURCES

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December 4, 1996

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

CHAD NEIBAUR  
GEM VALLEY FARMS  
1550 CENTRAL RD  
BANCROFT, ID 83217

Re: Unauthorized Use of Water

Dear Mr. Neibaur:

I have been organizing some of my files for the Bancroft-Lund water district week, including those for Gem Valley Farms. Attached to this letter is a copy of an October 18, 1996 memo which I prepared for the water district files regarding the unauthorized use which I found in October of this year. I thought that you should have a copy of the memo and know that the matter has been documented and is a matter of public record. I had meant to send this to you earlier but got sidetracked.

I reviewed the matter with Norm Young back in October. Based on the attached memo, Mr. Young decided not to seek monetary penalties which could have been pursued under the Agreement and Consent Order which you entered with the Department on July 23, 1996. The Department is both concerned and disappointed that the violation took place without any effort on your part to first contact the Department or watermaster.

I also wish to advise you that the violation may be identified in any annual report which I put together summarizing district activities and measurements. I do appreciate all other cooperation you have provided with water district measurements.

Respectfully,

Tim Luke

cc: Wayne Waddoups, Watermaster

## MEMORANDUM

**TO:** Gem Valley Farms Bancroft-Lund File

**FROM:** Tim Luke

**DATE:** 10/18/1996

**RE:** Report of Unauthorized Use of Water

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On October 10, 1996, I found that Gem Valley Farms was diverting water from a well located in the SW1/4 section 20, T9S R40E to land which was not authorized under water rights held by Gem Valley. The well in question is known locally as the Gem Valley Deep Well.

Water was being diverted from the Deep Well to a pivot in the SW1/4 of section 20, and a pivot in the NE1/4 of section 20. Gem Valley's water rights do not authorize use of water from this well to the land in the NE1/4 of section 20. Diversion of water from this well to the pivot in the NE1/4 was detected earlier in the irrigation season along with some additional violations and resulted in a Notice of Violation and subsequent compliance conference between Gem Valley and IDWR. An agreement and consent order was then drafted and signed by Norman Young, IDWR administrator, on July 23, 1996.

My visit to the Bancroft area on October 10 and 11 was for the purpose of conducting field measurements and derivation of power consumption coefficients for some wells and system operating conditions which had not been measured by the water master or IDWR earlier in the season. My visit was also made to pick up some end of season water level measurements within the district. I had scheduled several appointments with other users in the area to complete these objectives.

Upon my arrival to the area on October 10 at about 11 a.m., I observed several pivots being operated by Gem Valley and ran into Chad Neibauer of Gem Valley Farms. I approached Mr. Neibauer to ask what wells and pivots he was running so that I might pick up any discharge and KW energy/power meter measurements which had not been made earlier in the season. Neibauer immediately informed me that he was running the Deep Well and the two pivots described above. He acknowledged that he was watering the NE1/4 of section 20 and that this was not in compliance with his rights. I expressed some concern about this and the fact that it was not in compliance with his rights. He explained that he was diverting water to the NE1/4 because he needed to water the SW1/4 in preparation for planting winter wheat. He normally operates the deep well with the SW1/4 pivot and a pivot across the road in the SE1/4 of section 19. His water rights do authorize him to irrigate these pivots with the Deep Well. However, the section 19 pivot had a broken gear drive and would not move. He also said that the mainline to the SW1/4 pivot had a small leak and that he was afraid to throttle the well back or run the water only to the SW1/4 pivot for fear that the pressure would be too high and might blow out his mainline.

Due to this concern and the broken pivot in section 19, he opened a valve on his system which allowed water to be moved to the NE1/4 pivot.

After Mr. Neibauer explained his situation, I inquired as to how long he had been operating the system in this manner and how long it might continue. I believe he said that the well had only been on and used with these pivots for the morning of October 10, and a portion of the previous day. The pivot in the SW1/4 of section 20 only needed to water half the circle, and was nearly complete at the time of my arrival. I then reviewed the measurements which we had for this system and concluded that energy measurements were needed for his normal operating condition, and that a flow and energy measurement was needed for his second operating condition of just one pivot. Neibauer agreed to shut off the the NE1/4 pivot and turn on the section 19 pivot to allow me to make the energy measurement for the normal two pivot condition, and then make a flow and energy measurement for the one pivot condition using the SW1/4 pivot. Upon completion of my measurements, the well was turned off and remained off while I was in the area. The SW1/4 pivot had pretty much completed its' half rotation and did not need to be run any longer.

I feel it is important to note that during my discussion with Neibauer, I think I indicated that I did not want to pursue the violation, and that I was more concerned with correcting the violation immediately and making any necessary measurements for the Deep Well system, as well as other wells he might have been operating during my visit. I believe I may have left Mr. Neibauer with the impression that I would overlook the violation. At the time, I did not feel that the violation was severe given that it was late in the year, the duration of the violation was short, and consumptive use would have been minimal. However, I feel that it is important to document my findings and make it a matter of record in the water district files. Other users in the area are likely aware of the violation and that I was in the area at the time of violation.