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BRENT L. WHITING

November 26, 2003

Warren P. Lloyd
1475 Mountain Rd.
Bancroft, ID 83217

Re: Water Right Agreement

Dear Warren:

Enclosed please find a copy of the proposed Water Right Agreement executed by all the listed Junior Users. It is submitted to you for your approval and signature and I am enclosing a separate original signature page providing for the signatures of you and your wife for that purpose. If it meets with your approval please sign and return the original signature page I will then return to you and all other signatory parties a photocopy of the signed original.

I am informed by the Junior Users who executed the Agreement that they entered into an oral agreement with you on or about May 5, 2003, that they would pay the cost of installing a new replacement well at a location and in the manner that you directed. In return you agreed not to make a call on the water. It was contemplated that the oral agreement would be reduced to a formal written agreement signed by the parties.

The Junior Users contacted me to prepare the written agreement. Before proceeding, you will recall that I called you on July 22, 2003, to make sure you were agreeable with this and would waive any conflict of interest in me preparing the Agreement which could exist because I had discussed your well problems with you in years past. At the time you indicated that well had been completed but had not done you much good, but that you still intended to honor your word and would sign the Agreement. The Junior Users spent approximately \$40,000.00 drilling the well at the location you selected and installing the pump panel and motor. I am further informed that even though the well did not produce at the level you had hoped for, you

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Department of Water Resources
E. John Hagan

November 26, 2003

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also reaffirmed with Chad Neibaur, Terry Rindlisbaker, Gordon Yost, and others that you would sign a written agreement compassing the terms.

Bart Christensen, who is acting as spokesman for the Juniors Users, indicated you later called him and refused to sign. Bart, also advises that you proceeded to make a call on the water with IDWR. Under these circumstances the Junior Users request that you live up to your part of the agreement, sign the proposed Water Right Agreement and withdraw your delivery call. If you refuse to do so they intend to commence legal action against you to enforce the oral agreement.

By copy of this letter I am advising Eastern Region Manager Ronald Carlson of the foregoing. I am also copying the same to attorney Kent Foster, whom I am advised may be representing you on this matter. I was unable to reach Mr. Foster by telephone to confirm this as he will be out of the office until December 1, 2003.

Sincerely,



RANDALL C. BUDGE

RCB/efc

enclosures

c: Ronald Carlson (w/encl.)
Kent Foster (w/encl.)
Bart Christensen (w/encl.)
Gordon Yost (w/encl.)
Terry Rindisbaker (w/encl.)
Craig Christensen (w/encl.)

WATER RIGHT AGREEMENT

This Agreement is entered into between WARREN PARK LLOYD and JENNIE LaRUE LLOYD, husband and wife, whose address is 1475 Mountain Road, Bancroft, Idaho 83217 (hereinafter "Lloyd") and the undersigned junior priority water right users (hereinafter "Junior Users"), on May 5, 2003, in consideration of the promises stated in this Agreement.

1. This Agreement is made in reference to the following facts:

1.1 The water rights of Lloyd, Junior Users and others were adjudicated in the District Court of the Sixth Judicial District in and for the State of Idaho, in the Matter of the Adjudication of the Bancroft-Lund Area, Caribou County, Idaho Case No. 2919, Judgment and Decree dated November 14, 1991 ("Bancroft-Lund Decree"). The water rights of Lloyd and the Junior Users, together with their respective irrigated acres are as follows:

<u>Senior Water Right Holder</u>	<u>Water Right Number</u>	<u>Number of Acres</u>
Warren Park Lloyd	13-2313	237
<u>Junior Water Right Holder</u>	<u>Water Right Number</u>	<u>Number of Acres</u>
Bart Christensen	13-07099, 13-07147	626
Gordon Yost	29-07080, 29-07131, 29-07132, 29-07358	1160
Monte Yost	29-07308, 29-07324	536
Terry Rindlisbaker	29-07098, 29-07365, 29-07387, 29-07102, 29-07253	1288
Chad Neibaur	29-070005, 29-07070, 13-07165, 13-07261	1259
Eric and Von Simonson	13-07259, 13-07084	370
Curtis Stoddard	29-07434	307
Phil Yost	13-07097, 13-07163, 13-07225	919
Don Rigby	29-07637, 29-02548, 29-07001, 29-07636, 29-04061	1326
Kim Welch	29-02315, 29-07443	
Dale Wistisen	29-07394	<u>160</u>
	Total:	7951

1.2 The water rights of Lloyd and the Junior Users are located within and administered as a part of the Bancroft-Lund Ground Water Management Area as designated by Order of the Director of the Idaho Department of Water Resources.

- 1.3 Lloyd is the owner of Water Right No. 13-2313, which has a priority date of September 29, 1969, for 3.68 cfs/711 AFA for the irrigation of 237 acres located in Sections 14 and 23, Township 9 South, Range 39 East, B.M., Caribou County, Idaho. Said Lloyd water right is senior in priority to all of the water rights of the Junior Users.
- 1.4 There is insufficient water supply available to satisfy the Lloyd water right, by reason of which the water rights of the Junior Users are subject to reduction or curtailment.
- 1.5 Lloyd asserts that the operation of the Junior Users' wells as well, together with the operation of other wells in the Bancroft-Lund Ground Water Management Area, have diminished the water supply available to satisfy Lloyd's senior priority ground Water Right No. 13-2313.
- 1.6 The parties are unable to agree to the extent that the use of ground water by the Junior Users has diminished the water supply available and caused any alleged injury to the rights of Lloyd.
- 1.7 The parties desire to avoid the need for litigation on the nature and extent of the alleged injury to Lloyd's senior water right caused by the diversion of ground water by the Junior Users within the Bancroft-Lund Management Area.

2. Stipulated Agreement:

- 2.1 The undersigned Junior Users agree that in exchange for the safe harbor provided in paragraph 2.2, each junior user will pay to Lloyd a one-time payment of \$5 per irrigated acre, or a total of \$39,755.00 in cash upon execution of this Agreement. Said amount is for the purpose of reimbursing Lloyd the cost of drilling a new well, pump, motor and electric panel installation, electric panel, and 1/4 mile of main line pipe. Said well is located at a point selected by Lloyd approximately 1/4 mile north of their old well. Said new well will be located in the SE1/4 SE1/4, Section 14, Township 9 South, Range 39 East, B.M., Caribou County, Idaho, which has been added as an additional point of diversion for Lloyd's Water Right No. 13-2313.
- 2.2 In exchange for the payments by the Junior Users enumerated in paragraph 2.1, Lloyd agrees not to seek either judicially or administratively the curtailment or reduction of the ground water rights held or represented by the undersigned Junior Users.
- 2.3 The undersigned Junior Users do not concede that diversions of ground water pursuant to their rights are causing injury to the senior priority right of Lloyd, nor does Lloyd concede that the amount paid by the Junior Users under this Agreement fully compensates them for the extent of the injury they allege.

2.4 Holders of other junior priority ground water rights within the Bancroft-Lund Management Area who are not party to this Agreement, shall not be entitled to the benefits of the safe harbor provided by paragraph 2.2. The parties agree to request that the Director of the Idaho Department of Water Resources and/or the Watermaster of the Bancroft-Lund Management Area notify the ground water right holders in the Bancroft-Lund Area who are not party to this Agreement that they may be subject to curtailment under the prior appropriation doctrine as established by Idaho law.

3. Disclaimers:

3.1 This Agreement represents the settlement of disputed issues regarding the administration of water rights from interconnected ground water sources within the Bancroft-Lund Management Area. In order to avoid litigation of these issues at this time, the undersigned have entered into this Agreement. This Agreement has been reached as the result of good faith negotiations for the purpose of compromising and resolving legal disputes, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest.

4. General Provisions:

4.1 This Agreement shall bind and inure to the benefit of the respective successors of the parties.

4.2 This Agreement shall be recorded with the Caribou County Recorder's Office.

4.3 An original of this Agreement shall be filed with the Idaho Department of Water Resources and a copy provided to the Watermaster of the Bancroft-Lund Ground Water Management Area.

4.4 This Agreement sets forth all of the covenants, promises, provisions, agreements, conditions, and understandings between the parties and there are no covenants, provisions, promises, agreements, conditions, or understandings, either oral or written between them, other than are herein set forth.

4.5 Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretation of the text.

4.6 This Agreement is executed in triplicate. Each of the three Agreements with an original signature of each party shall be an original.

4.7 This Agreement shall be effective when executed by the parties.

4.8 This Agreement was drafted by the Junior Users' attorneys. Lloyd acknowledges that they must seek independent legal counsel.

The parties have executed this Agreement the date following their respective signatures.

SENIOR WATER RIGHT HOLDERS:

WARREN PARK LLOYD

JENNIE LaRUE LLOYD

JUNIOR WATER RIGHT HOLDERS:

Bart Christensen

BART CHRISTENSEN

Gordon Yost

GORDON YOST

Monte Yost

MONTE YOST

Terry Rindlisbacher

TERRY RINDLISBAKER

Chad Neibaur

CHAD NEIBAUR

Eric Simonson

ERIC SIMONSON

Von Simonson

VON SIMONSON

Curtis J. Stoddard

CURTIS STODDARD

Phil Yost

PHIL YOST

Don Rigby

DON RIGBY

Kim Welch

KIM WELCH

Dale Wistisen

DALE WISTISEN