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JAN 08 1999

Department of Water Resources

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BINGHAM COUNTY COURTHOUSE
501 NORTH MAPLE, #302
BLACKFOOT, IDAHO 83221-1700

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OFFICE OF THE PROSECUTING ATTORNEY
BINGHAM COUNTY
STATE OF IDAHO

January 5, 1999

Matthew J. McKeown
Deputy Attorney General
Office of the Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

Re: Collection of Fees for Water District No. 27
Our File No. CO-1420

Dear Matt:

The Bingham County Commissioners are planning to continue to collect water user fees for District No. 27. They have communicated this intention to the District through a letter dated December 29, 1998, a copy of which I have enclosed for your benefit. Additionally, they have no problem amending Bingham County Resolution 98-15. My suggestion to them is that they employ the exact language of I.C. § 42-619(1) such that the resolution reads as follows:

Whereas the Board of Bingham County Commissioners has determined that providing the service of payment of water district expenses by the county treasurer from water district funds pursuant to Section 42-613, Idaho Code, is an undue burden upon the county,

It is therefore resolved that said service shall no longer be provided.

I welcome any feedback you may have regarding the language set forth above. Please contact me, too, if you have further questions or concerns regarding this matter.

Sincerely,

BINGHAM COUNTY PROSECUTING ATTORNEY

A handwritten signature in cursive script, appearing to read "David M. Cannon".

David M. Cannon
Chief Civil Deputy

/es

c: Bingham County Commissioners

RECEIVED
JAN 07 1999
PROSECUTING ATTORNEY
BINGHAM COUNTY

Bingham County Commissioners

GEORGE KATSEANES, Chairman
KAY GNEITING
WAYNE T. BROWER

501 North Maple, # 204
Blackfoot, Idaho 83221
Phone: (208) 785-5005

December 29, 1998

COPY

Blackfoot River Irrigation District 27
Lola Dawn Hernandez, Secretary
350 S 700 West
Blackfoot, ID 83221


Dear Mrs. Hernandez:


After discussion with the Idaho Department of Water Resources, Bingham County will continue to collect the water user fees for District 27, as allowed by Idaho Code 42-613. The District will submit the roll and the requested fee for each water user to the County Treasurer for notification by mail.

The County Clerk will collect these monies in a trust fund and the monies will be paid out to the District secretary in two payments. The County will discontinue paying the District bills from this trust account as allowed in Idaho Code 42-619.

The Water District has the option to collect compensation and expenses incurred by the District as allowed by Idaho Code 42-618 and is the preferred option by the County.

Sincerely,


George Katseanes, Chairman


Kay Gneiting, Commissioner


Wayne Brower, Commissioner

c: Idaho Department of Water Resources

"Potato Capital"

Bingham County Commissioners

GEORGE KATSEANES, Chairman
KAY GNEITING
WAYNE T. BROWER

501 North Maple
Blackfoot, Idaho 83221
Phone: (208) 785-5005

November 13, 1997

RECEIVED
AUG 31 1998

Department of Water Resources

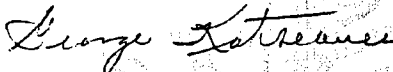
Mrs. Lola Dawn Hernandez
Secretary, Blackfoot River
Irrigation District
350 S. 700 West
Blackfoot, ID 83221

Dear Mrs. Hernandez:

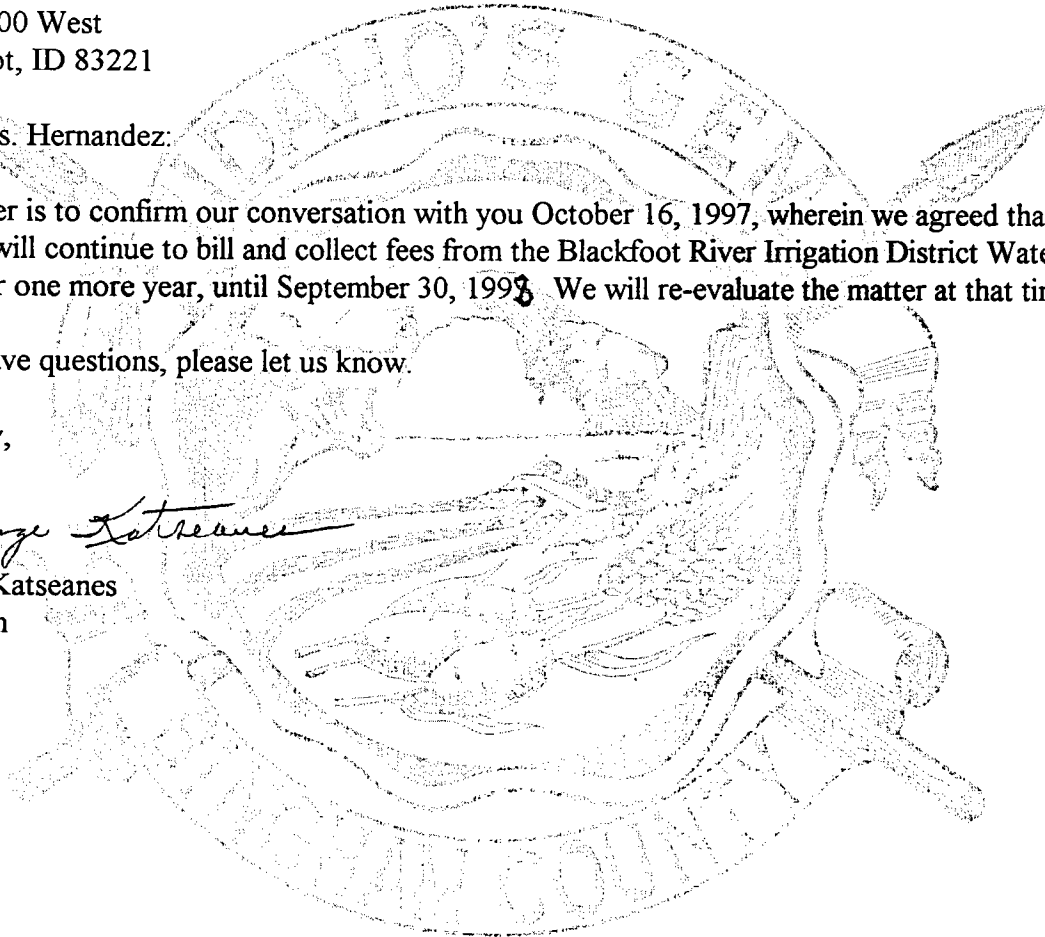
This letter is to confirm our conversation with you October 16, 1997, wherein we agreed that the County will continue to bill and collect fees from the Blackfoot River Irrigation District Water Users for one more year, until September 30, 1998. We will re-evaluate the matter at that time.

If you have questions, please let us know.

Sincerely,



George Katseanes
Chairman



"Potato Capital"



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 2, 1998

George Kasteanes
Chairman, Bingham County Commissioners
501 North Maple
Blackfoot, ID 83221

Re: State of Idaho Water District No. 27, Blackfoot River

Dear Mr. Kasteanes:

The Blackfoot River Water District, or Water District 27 (district), has forwarded to our office copies of correspondence between the district and the Bingham County Commissioners regarding the county's intent to discontinue its service of billing and collecting assessments for the water district. Specifically, your letter of June 29, 1998 states that "Bingham County will no longer bill and collect fees from the Blackfoot River Water District."

A discussion of this matter between our office and representatives of the water district indicates that there may be some misunderstanding about the county's intentions and options under Section 42-619, Idaho Code. This statute provides the method by which a county may choose to discontinue services for payment of water district funds. A copy of Sections 42-618 and 42-619, Idaho Code is attached for your reference. Also attached is a copy of a 1991 Opinion of the Idaho Attorney General which describes the methods for the collection and disbursement of water district funds. A description of the methods may be found on page 9 of the Attorney General Opinion.

As you will note, Section 42-619(1) provides that:

The county commissioners of any county having determined that providing the service of payment of water district expenses by the county treasurer from water district funds... is an undue burden upon the county and shall no longer be provided, shall notify the director of the department of water resources of this action by December 1 in the year preceding the year in which the action shall first be effective by providing to the director a certified copy of the resolution of the commissioners taking such action.

Also, Section 42-618, Idaho Code provides that:

In water districts the water users,...,may, at any annual meeting, authorize the watermaster to collect his compensation...and other expenses of delivering the water of said district.

As of this date, the department has not received a certified copy of a resolution passed by the commissioners which terminates the county's service of payment of water district expenses. Please note that such resolution may only remove the county from providing the service of payment or disbursement of water district funds. The resolution does not automatically remove the county from the service of collecting the assessments for any water district within the county unless the district adopts a resolution at its regular annual meeting pursuant to Section 42-618, Idaho Code. It is our understanding that the district has not adopted a resolution providing for an alternate method of collecting assessments and that it wishes the county to continue with the service of collecting assessments.

If the Bingham County Commissioners have adopted a resolution pursuant to Section 42-619(1), Idaho Code, please forward a certified copy of this resolution to the department by December 1, 1998. Upon receipt of the resolution, the department will notify the district water users of the county resolution prior to the district's 1999 annual meeting. The water district must then hold its meeting and elect a district treasurer who will have responsibility for disbursement of district funds. The district treasurer should also coordinate with the county treasurer regarding the transmission of collected funds from the county to the district.

If you have questions or need assistance concerning this matter, please contact me or John Homan at 327-7900. Mr. Homan is a Deputy Attorney General assigned to IDWR.

Sincerely,



Tim Luke

cc: John Homan, Deputy Attorney General
Lola Dawn Hernandez, Secretary, Water District 27

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Bingham County Commissioners

GEORGE KATSEANES, Chairman
KAY GNEITING
WAYNE T. BROWER

501 North Maple
Blackfoot, Idaho 83221
Phone: (208) 785-5005

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AUG 31 1998

Department of Water Resources

June 29, 1998

Mrs. Lola Dawn Hernandez
Secretary, Blackfoot River
Irrigation District
350 S. 700 West
Blackfoot, ID 83221

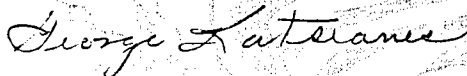
Ref: Bingham County Commissioners' Letter of November 13, 1997

Dear Mrs. Hernandez:

In reference to the above letter, this is to remind you that, as agreed to with you on October 16, 1997, Bingham County will no longer bill and collect fees from the Blackfoot River Irrigation District Water Users after September 30, 1998. This should give you plenty of time to make arrangements for billing and collecting your own fees.

If you have questions or need further information, please call. Thank you.

Sincerely,



George Katseanes
Chairman

"Potato Capital"