



State of Idaho

DEPARTMENT OF WATER RESOURCES

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May 11, 1995

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

Doug Rosenkrance
Water District 34
PO Box 53
Mackay, ID 83251

RECEIVED

MAY 15 1995

Department of Water Resources
Eastern District Office

RE: Jensen - Sorensen Water Exchange

Dear Doug:

This letter is in response to the April 4, 1995 letter to you from Mr. Kirby A. Jensen and Mr. Jensen's telephone call to me on May 3, 1995. I understand from Mr. Jensen's telephone call he has very strong feelings about this situation and it is a situation that I have taken very seriously. Accordingly, I have reviewed the situation with both counsel and the acting director of the department to be as certain as I can be that my response correctly reflects the position of the department.

In both his letter and telephone conversation Mr. Jensen requested the decreed surface water rights owned by he and Mr. Doyle Jensen and currently exchanged with Mr. Mitchell Sorensen be reverted to their pre-exchange place of use on the property of the Jensens. His request is based upon his view that the exchange agreement provides for reversion of the decreed water when the water supply from the well(s) is interrupted and that Mr. Sorensen's failure to pay his portion of the electrical costs for pumping has interrupted the water supply.

Our interpretation of the exchange is that you should continue to deliver water according to the exchange, that is, the ground water may be used by Mr. Jensen and the surface water may be used by Mr. Sorensen, unless the ground water becomes physically unavailable to Mr. Jensen. If the ground water is physically unavailable to Mr. Jensen you are authorized, upon request, to deliver the surface water to Mr. Jensen. Disputes over payment of electrical costs for pumping does not make the ground water physically unavailable to Mr. Jensen.

Please let me know if you have questions or concerns.

Yours truly,

David B. Shaw
Adjudication Bureau Chief

cc: Kirby A. Jensen
Mitchell Sorensen