



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
 Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
 Governor

KARL J. DREHER
 Director

August 3, 2004

Granite Trust Organization
 C/o Lawrence Babcock
 PO Box 66
 Moore, ID 83255

Re: Petition for Reconsideration of Idaho Department of Water Resources Order in the Matter of Distribution of Water Rights 34-372A, 34-372B, and 34-690B, Dated July 12, 2004, and Amended Order Dated July 23, 2004

Dear Mr. Babcock,

The Idaho Department of Water Resources ("Department") is in receipt of your letter dated August 2, 2004 requesting reconsideration of the above referenced order. The Department received your correspondence on August 3, 2004. The Department acknowledges your correspondence as a petition for reconsideration and a request for hearing.

The Department received a petition for hearing and a request for stay of the Department's order on July 20, 2004 from the law firm of Rigby, Thatcher, Andrus, Rigby and Moeller ("Rigby") on behalf of numerous individual ground water right holders in Water District 34. A least one of the names listed on your petition as being associated with Granite Trust Organization, Reva Walker, appears on an attachment to the petition from Rigby in which she is identified as being represented by the Rigby law firm (the Rigby petition also lists a Patsy Goson, which may be Patsy Goodson listed on your letter). On July 23, 2004, the Department amended the above referenced order and issued a Notice of Status Conference in response to the Rigby petition. A copy of the amended order and Notice of Status Conference was mailed to you on July 23, 2004. The Department held the status conference for the contested case created by the Rigby petition on August 2, 2004, at 10:00 a.m., at the Mackay High School Auditorium, Mackay, ID. The hearing officer assigned to this matter will consolidate your petition with the Rigby petition and other individual petitions given that the issues raised in the respective petitions are similar, and because one or more persons who are listed on your petition may already be represented by Rigby.

Please contact me directly at the above office if you have further questions regarding this matter.

Respectfully,

Tim Luke
 Manager, Water Distribution Section

Cc: Gary Spackman, IDWR
 Ray Rigby, Rigby, Thatcher, Andrus, Rigby and Moeller
 Bob Duke, Watermaster, Water District 34

Before The Department of Water Resources
Of The State of Idaho

In the matter of Distribution of Water To Water Right Numbers
34-372A, 34-372B, and 34690B.

PETITION FOR RECONSIDERATION

Granite Trust Organization and others whose signatures are affixed below, hereby file this Petition for reconsideration, and objection to, the order in the above entitled matter dated the 23rd day of July, 2004, over the signature of Karl Dreher, for at least but not limited to the following reasons to wit:

1. On page #2, paragraph #2, the "Department" admits to control over ground water diversions. Therefore the department accepts responsibility to protect ground water levels from depletion, which they have failed to do.
2. I.D.W.R. successfully recommended to the Adjudication Court an over appropriation of the ground water supply and we are experiencing the injury caused by that recommendation.
3. I.D.W.R. recommended that a number of supplemental wells be expanded to primary wells and transferred surface water rights to new places of use resulting in lack of recharge and depletion of ground water supplies.
4. I.D.W.R. uses water years 01, 02, and 03 as years when Jensen's "83" water was not available through August, September, and October. The department fails to acknowledge that those dates also generally correspond with their futile call in these years in Basin 34. If the "futile call" had not been made in 01, 02, and 03 Jensens would have received their water as would be the case this year.
5. The ground water right owned by Granite Trust, # 34-10272, 4.63 CFS, is located approximately seven miles down gradient from Jensen's point of diversion of their 1883 surface right, and by no figment of imagination would have bearing on the river flow up gradient from the Moore Diversion.
6. On page 7, paragraph 26, I.D.W.R. makes the point that during low water years 1959 - 1979 adequate water was delivered to the Moore Diversion, ignoring the fact that those years preceded the unauthorized, and then I.D.W.R. recommended, expansion of ground and surface water rights from areas up gradient to expand areas down gradient of the "A" line.
7. On page 9, paragraph 1, I.D.W.R. admits that it is mandatory to distribute water according to the "prior Appropriation" doctrine.

8. On page 15, paragraph 23, I.D.W.R. demands that junior water right holders "must provide 6,110 acre feet of water to augment river flows", (to Jensens). If this water were supplied to Jensens over the next two and one-half months, water would total in excess of 20 feet deep per acre.

For at least the above reasons it is evident that I.D.W.R. has caused our current problem and should refrain from placing blame and responsibility for correction on ground water users as a whole in this basin.

I.D.W.R. already has a "mitigation plan" in place. It is sometimes called the prior "appropriation doctrine" as outline in the Idaho State Constitution, article fifteen, and detailed in Idaho Code, Titles 42 and 43.

An oral hearing is requested.

Trusting in your serious consideration of these points,
I remain,

Sincerely Yours,

Lawrence Babcock, trustee
Lawrence Babcock, Trustee

Rene H. Walker


Lera Stewart

Dale Smith

W. H. Benson

Patsy Goodson

I hereby certify that on this 2nd day of August 2004, the above Petition For Reconsideration in the above matter was served on the Department of Water Resources, at Boise, Idaho by facsimile mail #(208)-327-7866.


Lawrence Babcock