

January 15, 2007

Big Lost River Irrigation District  
P.O. Box 205  
Mackay, Idaho 83251

W.D.  
RECEIVED

FEB 20 2007

DEPARTMENT OF  
WATER RESOURCES

Dear Big Lost River Irrigation District;

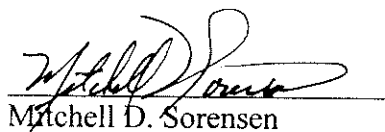
Please find enclosed the 2006 acres irrigated report required by transport agreements between Big Lost River Irrigation District and Mickelsen Properties LLC. I have included on that report the method used to determine how many acres were adequately irrigated with 646 c.f.s. or 1,281 a.f. of conveyed water supply.

Also please find enclosed a copy of the NOTICE OF FARM LEASE AGREEMENT AND FIRST RIGHT OF REFUSAL entered into between Mickelsen Properties LLC, LESSOR, and Mitchell D. Sorensen and Elaine R. Sorensen, LESSEE. This lease agreement began in 2006 and will extend for many years. BLRID will be notified in the future when this arrangement changes. The purpose of providing BLRID with this notice is to inform you of the agreement regarding the use of certain water and conveyance rights, and request that all future communications and notices regarding those rights be mailed directly to Mitchell D. Sorensen at the mailing address of:  
3871 West 2500 North, Moore, Idaho 83255.

It would also be helpful and greatly appreciated if future communications and notices from your office contained sufficient descriptions so as to make it clear which acreage, agreement(s), and/or water supplies were being referred to in those communications and notices. This is becoming ever more essential as additional property rights are continually being acquired. We will also try our best to kept BLRID apprised of any future relevant transactions.

Feb. 14, 07

Sincerely,

  
Mitchell D. Sorensen

Enclosures:

Copy to: Mickelsen Properties LLC

Nick - These are copies of some  
communication between myself & BLRID.

The relevant parts are Bob's admission  
BLRID was not charging any shrink in the  
Morse Canal for a period of time, and  
the likelihood that Mickelsen may not of  
received their entire entitlement of water.  
(high lighted in yellow)

Thanks

Mitchell

# BIG LOST RIVER IRRIGATION DISTRICT

P.O. BOX 205 · MACKAY, IDAHO 83251 · (208) 588-2231 · FAX: (208) 588-2863

January 8, 2007

Mickelsen Properties  
P.O. Box 438  
Rigby, ID 83442

Dear Mickelsen Properties:

The transport agreement signed by you for the use of the Irrigation District's Canal System requires that you declare the number of acres irrigated with said water for your out of district lands. Please refer to item seven on page three of this agreement.


Our records reflect that there was 646 CFS of water delivered for the 2006 irrigating season. Would you please provide the number of acres that was irrigated in 2006 with the delivery of this water. We would appreciate receiving this information by January 31, 2007.

Sincerely,



Dawn Brown  
Office Manager

251 ACRES  
Acres irrigated in 2006

 JAN 11, 2007  
Signature and date

Delivered/Diverted Supply 646 cfs or 1,281 AF  
Ave. delivery rate in Moore Canal 70%  
896 AF  
Ave. delivery rate in Timberdome Canal 70%  
627 AF  
Annual Requirement per acre 2.5 AF  
251 ACRES

# BIG LOST RIVER IRRIGATION DISTRICT

P.O. BOX 205 · MACKAY, IDAHO 83251 · (208) 588-2231 · FAX: (208) 588-2863

February 9, 2007

Mitchell D. Sorensen  
3871 West 2500 North  
Moore Idaho 83255

Dear Mitchell:

We received your report and calculations on the water used on the Mickelsen property leased by you in 2006. After reviewing your calculations on conveyance loss I figured the average weekly loss on the Moore Canal which was 0 from May 1, 2006 until July 9, 2006. The conveyance loss from July 10, 2006 thru the end of the season averaged 18.78%. I then got a copy of the Timberdome's ditch rider reports from Water District 34 and can not figure out any possible way shrink or conveyance loss could be figured or who is getting the water. Due to the lack of detail in the Timber Dome logs, I can see that Michelson's well was run but no deliveries to Mickelsen are shown? Using your calculations, this left me assuming that the shrink on the Timber Dome is the same as the Moore Canal as you did in your figures.

Our records indicate that 28,582 inches (571CFS) was delivered at the Crossover weir.

Total of shrink charge for last 14 weeks = 263 %  
Divided by 24 weeks                      24  
Equals a weekly average of              10.96 %

Using your formula;      571CFS = 1132 AF    Amount delivered at Crossover headgate  
                                 - 11% 125 AF    Assumed Loss in Timberdome Canal  
                                 1007AF    at Mickelsen headgate  
                                 Divided by 2.5 AF  
                                 402 ACRES IRRIGATED

We believe you irrigated at least 402 acres of the 2025 possible acres and we will bill you for 402 acres unless you can prove other wise.

Reporting discrepancies such as this could jeopardize your transport agreements with BLRID. It states on page 4, number 12: Any breach of the covenants or conditions contained herein shall constitute a material breach of this agreement and a default hereunder. Upon such default occurring, the non-defaulting party may terminate this agreement upon giving ten days written notice of said default.

A possible solution to the discrepancies would be to have Mickelsens enter into a new transport agreement. The new transport agreements are for five year durations but are renewable. These new agreements are based on the water right CFS and eliminate the need to calculate acres irrigated. A new agreement would allow continuity among your already existing out of district accounts. We would still reference the Mickelsen account by name with you as a point of contact.

We hope that you will consider and discuss with Mickelsen Properties the possibility of entering into a new agreement. Enclosed is a new copy of our current transport agreements. We have one agreement for ground and one for surface transports. All the Mickelsen ground rights that are transported through district facilities could be combined into one ground agreement and likewise for the surface rights.

Please note upon sale of the property a new transport agreement will be required.

Sincerely;

Bob Shaffer  
General Manager  
Big Lost River Irrigation District

A handwritten signature in cursive script that reads "Bob Shaffer".

Copy to Mickelsen Properties LLC

February 14, 2007

Big Lost River Irrigation District  
P.O. Box 205  
Mackay, Idaho 83251

RE: Response to Manager Shaffer's February 9, 2007 Letter

Dear BLRID Manager Bob Shaffer;

This letter is written in response to your February 9<sup>th</sup>, 2007, letter which I recently received. I found most of your letter to be unjustifiable and a bit argumentative regarding the number of irrigated acres reported for the Mickelsen Properties during 2006. Some of your letter's content was even irrelevant to the matter being reported. I will try to ignore those irrelevant parts and respond only to the pertinent portions.

You took exception to my estimation that the annual average conveyance loss in the Moore Canal and Timberdome Canal was approximately 30% for each canal. While the exact daily conveyance loss in the Timberdome system varies from the 30% average, 30% over the entire irrigation season is still a pretty good statement of fact. Of course not having direct access to all the diversion and delivery records of BLRID left me in the position of using the historic statistical averages that are commonly held to within the basin for the operational losses of the Moore Canal. However, your claim that a porous earthen canal lateral that is 10 to 15 miles in length and dry for 6 months out of the year suffered "0" shrink for the first two and half months of the irrigation season followed by only a 18.78% loss through the end of the season is absurd. Likewise, your assumption that these unjustifiable numbers of the Moore Canal should be exactly mirrored as the conveyance conditions in the Timberdome Canal system is equally absurd.

In your letter you stated BLRID "records indicate (571 CFS) was delivered at the Crossover weir". That is useful information. I would propose that in future years BLRID include annual totals for both the diversion totals at the Moore Canal heading and the delivery headgate "crossover weir" (646 c.f.s. or 1,281 a.f. and 571 c.f.s. or 1,132 a.f. respectfully for 2006) when requesting irrigated acre reports. The problem right now is the headgate delivery totals for 2006 are questionable because of inaccurate conveyance loss calculations you used as discussed above.

Using a convoluted formula you concluded that Mickelsen irrigated 402 acres instead of the 251 acres I reported. You then challenge me to prove other wise, and tried to intimidate me by threatening to terminate the transport agreement(s). What you are really saying is that you believe BLRID has the right to extort money from me by issuing unfounded excessively high assessment levies, and if I don't yield to your intimidation tactics you'll cancel the transport agreement contracts. Shame on you! I don't believe the irrigation board members support you in this antagonistic behavior.

For your convenience, I will provide you with some evidence that the 251 acres I reported is probably too many acres of actual irrigated land with water supplies that were conveyed through the Moore Canal. You have already admitted you don't know how many acres Mickelsen irrigated with other valid water supplies. But you assume the

acres irrigated with water supplies conveyed through the Moore Canal has to be more than the 251 acres I reported. Yet you have no evidence to support that notion.

The only water rights BLRID conveyed through the Moore Canal for Mickelsen Properties in 2006 were: *(copies of partial decrees attached)*

Water Right No.	Priority	Quantity	Acres	Combined Permissible Acres
34-00618	09/01/1884	3.20 cfs	139.0	2277 acres
34-13661	06/01/1896	1.00 cfs	43.0	2025 acres
34-13659	06/01/1889	<u>0.97 cfs</u>	<u>43.0</u>	2277 acres
		5.17 cfs	225.0	

The maximum allowable acres that can be irrigated with these three natural flow water rights is 225 acres. The watermaster curtailed the 06/01/1896 priorities on July 20, 2006, and the 06/01/1889 priorities a day later on July 21, 2006. That means the 3.20 cfs of 1884 priority water right which was available for the entire 168 days of the irrigation season provided 537.6 cfs of water. The 1896 and 1889 priorities combined for 1.97 cfs for 81 days and provided 160 cfs of water. The supply from these three water rights totaled approx. 697.6 CFS, yet BLRID records indicate only 646 CFS was diverted into the Moore Canal heading. It looks like BLRID shorted Mickelsen Properties some 51 CFS or 101 AF of water. In a water year that produced flood water supplies and plenty of water for other water users, why didn't Mickelsen Properties get their full entitlement?

BLRID can decide whether to assess me for the 225 of allowable acres, or the 251 acres I reported (which includes 26 acres of over reported acres). Your allegation of 402 irrigated acres can not be justified using any reasonable accounting method and is nothing short of personnel harassment directed towards myself and Mickelsen.

Finally, your letter proposes that the solution is for Mickelsen to enter into new transport agreements. Frankly, we don't find anything wrong with the ones we have. They were entered into on the 10<sup>th</sup> day of December, 1999, and remain in full force and effect until the 10<sup>th</sup> day of December, 2020. An interesting fact is that if the "new agreements" were used as the basis to determine current assessments, BLRID would only be entitled to (5.17 cfs divided by .02 = 258.5 acres multiplied by 80% of Class I Rates, or the equivalent of 206.8 acres under the existing contracts). Are you sure BLRID wants to reduce it's assessment revenue by that amount?

Sincerely,

  
Mitchell D. Sorensen

Enclosures:

Copy to: Mickelsen Properties LLC  
Joel Andersen, Irrigation District Director  
Nick Miller, IDWR Water Distribution

# SRBA

## PARTIAL DECREE 34-00618

Issued on 07-15-2002.

*This is not an official copy.*

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: EVERETT T ACOR JR.  
3196 N YELLOWSTONE HWY  
IDAHO FALLS, ID 83401

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 3.20 CFS

PRIORITY DATE: 09/01/1884

POINT OF DIVERSION: T05N R26E S04 NESESE Within Butte County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	05-01 TO 10-15	3.20 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

PLACE OF USE: Irrigation Within Butte County

T04N R26E S04 LOT 1	(NENE)35.0	LOT 2	(NWNE)36.0
	SWNE 36.0		SENE 32.0

139.0 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2277 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-13663, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-02330B, 34-00692C, 34-13659 AND 34-13661.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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## PARTIAL DECREE 34-13661

Issued on 11-16-2001.

*This is not an official copy.*

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

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NAME AND ADDRESS: ACOR T EVERETT JR  
RT 1 BOX 13  
MOORE, ID 83255

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS  
QUANTITY: 1.00 CFS  
PRIORITY DATE: 06/01/1896  
POINT OF DIVERSION: T05N R26E S04 NWSESE Within Butte County  
PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	05-01 TO 10-15	1.00 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED  
IN SEASONS OF UNUSUAL CHARACTERISITICS TO A BEGINNING DATE OF  
04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE  
DIRECTOR.

PLACE OF USE: Irrigation Within Butte County  
T05N R26E S28 SWSW 7.0 SESW 36.0  
43.0 Acres Total

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO  
THE IRRIGATION OF A COMBINED TOTAL OF 2025 ACRES IN A SINGLE  
IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-02426C  
34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077,  
34-07120, 34-00618, 34-00692C, 34-02330B AND 34-13659.

USE OF THIS RIGHT WITH RIGHT NO. 34-13659 IS LIMITED TO  
THE IRRIGATION OF A COMBINED TOTAL OF 43 ACRES IN A SINGLE  
IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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## PARTIAL DECREE 34-13659

Issued on 11-16-2001.

*This is not an official copy.*

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

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NAME AND ADDRESS: EVERETT T ACOR JR.  
RT 1 BOX 13  
MOORE, ID 83255

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 0.97 CFS

PRIORITY DATE: 06/01/1889

POINT OF DIVERSION: T05N R26E S04 NWSESE Within Butte County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	05-01 TO 10-15	0.97 CFS

THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR.

PLACE OF USE: Irrigation Within Butte County

T05N R26E S28	SWSW 7.0	SESW 36.0
43.0 Acres Total		

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2277 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-13663, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-07179, 34-07077, 34-07120, 34-00618, 34-00692C, 34-02330B AND 34-13661.

USE OF THIS RIGHT WITH RIGHT NO. 34-13661 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 43 ACRES IN A SINGLE IRRIGATION SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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