



ELMORE COUNTY  
PROSECUTING ATTORNEY

BARBARA J. LAYHER

190 South 4th East  
Post Office Box 607  
Mountain Home, Idaho 83647-0607

*WV*  
DRT *one* *File*

RECEIVED

JAN 30 1995

WATER RESOURCES  
WESTERN REGION

KENNETH M. ROBINS  
Chief Deputy Prosecutor

J. O. Nicholson, III  
Deputy Prosecutor

Phone (208) 587-2144  
Fax (208) 587-2146

January 27, 1995

To: All parties concerned  
From: J.O. Nicholson, III  
Deputy Prosecuting Attorney

RE: State v. Paul Batruel  
Case No: CR-MD-94-00544

To Whom It May Concern:

After reviewing the files, decrees, memorandums, personally investigating the scene and after discussing the matter with Officers of the Idaho Water Resource Department, Dave Tuthill and Rob Whitney, the case of State v. Batruel will be dismissed. Albeit, the headgate was covered with dirt and not ripped out as originally believed, this Prosecutor believes that the crime cannot be proven beyond a reasonable doubt.

If further litigation is desired, the problem should be handled in the civil court. The Water Resource Officers indicated that the civil order issued by Judge Rowett is vague and unclear to them. Your attorneys may be able to file a motion requesting clarification.

Sincerely,

BARBARA J. LAYHER  
ELMORE COUNTY PROSECUTING ATTORNEY

BY: *J. O. Nicholson, III*  
Deputy Prosecuting Attorney

JON/fmm

cc: IDWR  
Paul Batruel  
Ray Smith  
Blair Clark, Attorney at Law  
Howard Manweiler, Attorney at Law  
Elmore County Sheriff's Office  
File



ELMORE COUNTY  
PROSECUTING ATTORNEY

BARBARA J. LAYHER

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Post Office Box 807  
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ETH M. ROBINS  
Deputy Prosecutor

NICHOLSON, III  
v Prosecutor

(208) 687-2144  
(208) 687-2148

FAX COVER SHEET

TO: *Water Resources*

FAX NUMBER: *1-700-334-8348*

ATTENTION: *Rob Whitney*

FROM: *Elmore County Prosecuting Attorney*

RE: *Paul Batruel*

DATE: *1-10-95*

INSTRUCTIONS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REPLY REQUESTED BY: \_\_\_\_\_

ELMORE COUNTY PROSECUTING ATTORNEY  
BARBARA J. LAYHER

BY: *Jan* \_\_\_\_\_

TOTAL NUMBER OF PAGES 3 INCLUDING COVER  
IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ELMORE

THE STATE OF IDAHO,	)	
	)	Case No. CR-MD-94-00544
Plaintiff,	)	
	)	
VS.	)	SUBPOENA - CRIMINAL
	)	
PAUL BATRUEL,	)	
	)	
Defendant.	)	Jury Trial

TO: Rob Whitney  
Water Resources  
2735 Airport Way  
Boise, Idaho

YOU ARE COMMANDED To appear before the Honorable John R. Sellman, Magistrate Judge of the District Court of the Fourth Judicial District in and for the County of Elmore, State of Idaho, on the 6th day of February 1995, at the hour of 9:00 o'clock A.M., as a witness in a criminal action prosecuted by the State of Idaho against the above-named Defendant.

ORIGINAL

YOU ARE FURTHER REQUIRED TO:

XXXXX TELEPHONE (587-2144) the Office of the Elmore County Prosecuting Attorney the LAST WORKING DAY PRIOR TO SAID HEARING DATE to confirm said hearing.

XXXXX BRING THIS SUBPOENA AND THE ATTACHED VOUCHER WITH YOU WHEN YOU APPEAR IN COURT. The attorney handling the matter will acknowledge your appearance by signature; you will then hand deliver the voucher to the Court Clerk's Office in order to receive your witness fee.

\_\_\_\_\_ Contact the Office of the Elmore County Prosecuting Attorney upon service of this Subpoena for review of this criminal action.

\_\_\_\_\_ Appear at the Office of the Elmore County Prosecuting Attorney, 190 South 4th East, Courthouse Annex, Mountain Home, no later than \_\_\_\_\_.

\_\_\_\_\_ Make arrangements with the Office of the Elmore County Prosecuting Attorney ten (10) days prior to trial for an appointment.

\_\_\_\_\_ BRING WITH YOU AND HAVE WITH YOU BEFORE SAID COURT:

WITNESS MY HAND AND SEAL This 10 day of January 1994<sup>5</sup>.

DOLORES ROBISON  
CLERK OF THE DISTRICT COURT

BY: Melba Capelli  
DEPUTY CLERK