

SERVICE, GASSER & KERL

Attorneys and Counselors at Law

P.O. Box 6009 * 2043 East Center Street
Pocatello, Idaho 83205-6009

Telephone: (208) 232-4471
Facsimile: (208) 232-1808



Clark Gasser*
Of Counsel
*Also Member D.C. Bar

Archie W. Service
Ron Kerl
Steven V. Richert
James A. Spinner
Kay M. Christensen

April 23, 1997

RECEIVED

APR 25 1997

WATER RESOURCES
WESTERN REGION

Gary Spackman
State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: Petition for Enforcement of Decree and Order
McCammon Ditch Company, Water District 29A

Dear Gary:

Thank you for your letter inquiring about the status of any settlement negotiations regarding McCammon Ditch Company's petition. I have forwarded your letter, and one received from Randy Budge, to my client for review and response. As stated in his letter, Randy did call me to discuss the matter. I have not yet had the opportunity to meet with my client, however. I will be out of my office until next Tuesday, April 29th, but intend to discuss the petition with McCammon Ditch sometime that week.

Please allow us a longer period to respond to your inquiry. From talking with Randy Budge I do not think he would object to this, although I have not asked him directly. I will try to have a response to you by the first week of May. Thank you.

Sincerely,

SERVICE, GASSER & KERL

Kay M. Christensen

KMC/jlh

cc: Byron Allen
Randy Budge
06-15-01.114

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***
LISA M. CHRISTON****
BRENT R. KING

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR
***ALSO MEMBER CO BAR
****ALSO MEMBER IL BAR

CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391
TELEPHONE (208) 232-6101
FAX (208) 232-6109

ASSOCIATED WITH
McGRATH, MAROTZ
& SMITH
414 SHOUP
P. O. BOX 50731
IDAHO FALLS, ID 83405
TEL (208) 524-0731
FAX (208) 529-4166

STEPHEN J. McGRATH
SCOTT W. MAROTZ
BRYAN D. SMITH†
†ALSO ADMITTED IN CA

April 10, 1997

RECEIVED

APR 14 1997

WATER RESOURCES
WESTERN REGION

Gary Spackman
State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

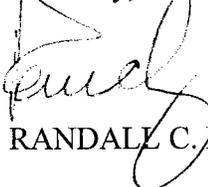
**RE: *Petition of McCammon Ditch Company for Administration of
Water Within Water District 29***

Dear Gary:

Thanks for your letter of March 31, 1997. Since the May 1996 prehearing conference, I do not believe there have been any communications between the parties. Since I haven't heard from Kay Lyon regarding what intentions McCammon Ditch Company may have to pursue the petition, I will contact her and expect one of us will be back in touch with you shortly.

Since 1996 was a good water year and 1997 likely will be better, the concerns raised by McCammon Ditch likely are less pressing. In any event, it still seems necessary that any issues regarding the parties' respective water rights must properly be determined in the SRBA.

Sincerely,


RANDALL C. BUDGE

RCB:jmb

cc: Kay E. Christensen
Ervin Gilbert



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

March 31, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

KAY E CHRISTENSEN ESQ
SERVICE GASSER & KERL
PO BOX 6009
POCATELLO ID 83205-6009

RANDALL C BUDGE ESQ
RACINE OLSON NYE COOPER & BUDGE CHTD
PO BOX 1391
POCATELLO ID 83204-1391

Re: Petition of McCammon Ditch Co. for Administration of Water Within Water District 29.

Dear Mr. Budge & Ms. Christensen:

In May of 1996, I conducted a pre-hearing conference regarding the above titled matter to determine how the petition should be addressed. Both the McCammon Ditch Co. and the Portneuf Marsh Valley Irrigating Co. asked that formal proceedings be delayed for a short period of time to allow the parties to discover facts informally and negotiate a possible settlement. An order was issued on June 5, 1996, delaying any formal proceeding until August 30, 1996.

The irrigation season in 1996 was a good water year in the Portneuf River. I understand that the 1997 irrigation season also promises to be a good water year. In addition Natural Resources Conservation Service and the Department of Water Resources have completed a survey of the dam and reservoir, and have completed a contour map of the reservoir bottom. Storage capacity of the reservoir can now be determined. The department still needs to establish a relationship between water levels and a staff gauge for the reservoir. Enclosed is a copy of the reservoir contours.

There are still some issues alleged in the petition that are unresolved. One issue is the delivery of storage water without loss, particularly for storage that was not decreed by the original water right. In addition, there is a dispute regarding delivery to Arimo users after the measuring device that sometimes were delivered to Portneuf Marsh Valley.

This letter is an inquiry asking what the department should do. If the parties cannot communicate some progress towards settlement, I will schedule the matter for conference/hearing. I ask that you respond to this letter with an update within two weeks.

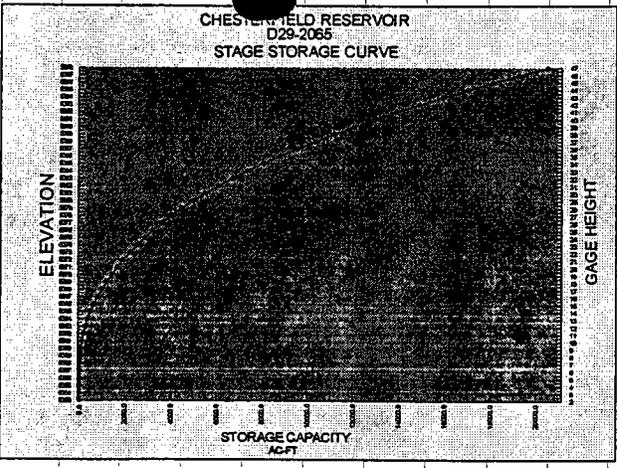
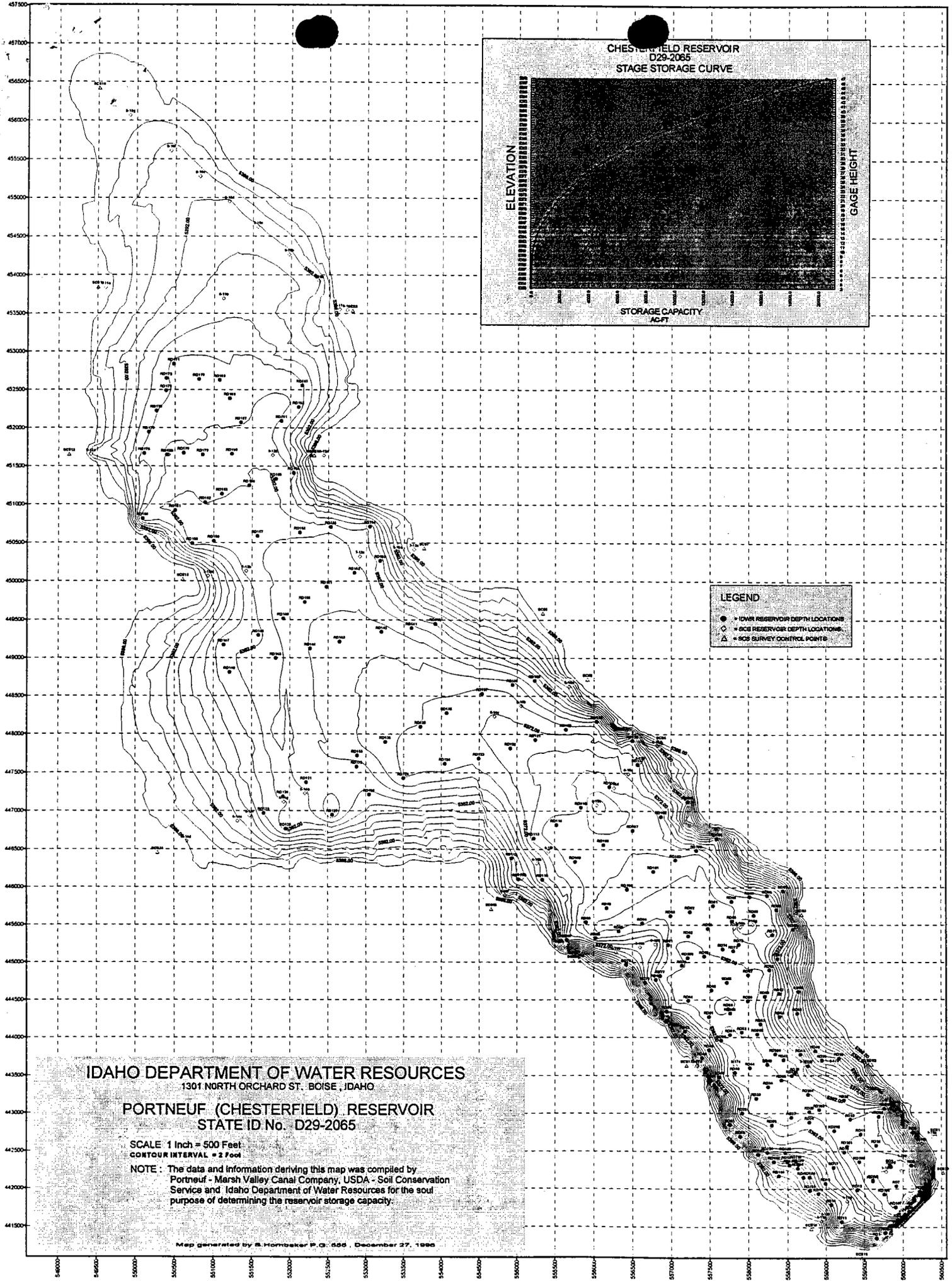
Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman". The signature is written in black ink and is positioned above the printed name.

Gary Spackman

GS:st

CC: Robert Johnson
Arlin G. Olson
Erwin Gilbert



LEGEND

- IDWR RESERVOIR DEPTH LOCATIONS
- BGS RESERVOIR DEPTH LOCATIONS
- △ BGS SURVEY CONTROL POINTS

IDAHO DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD ST. BOISE, IDAHO

PORTNEUF (CHESTERFIELD) RESERVOIR
STATE ID No. D29-2065

SCALE 1 Inch = 500 Feet
CONTOUR INTERVAL = 2 Feet

NOTE: The data and information deriving this map was compiled by Portneuf - Marsh Valley Canal Company, USDA - Soil Conservation Service and Idaho Department of Water Resources for the sole purpose of determining the reservoir storage capacity.

Map generated by S. Hornbaker P.O. 688, December 27, 1988

MEMORANDUM

To: Tim Luke
From: Gary Spackman *Gary*
Date: February 19, 1997

Re: McCammon Ditch Company's Petition for Enforcement of Decree

I called Kay Christensen on February 18, 1997, and asked about the status of the Petition for Enforcement of Decree filed by the McCammon Ditch Company. As you recall, we held a prehearing conference last spring, and the parties wanted to delay the hearing and conduct some preliminary negotiations. We stayed the proceedings until August 30, 1996. You inquired about the status by letter dated September 12, 1996, but nobody responded.

Kay told me that she had not been in contact with her client, and promised that she would inquire and let me know what McCammon wanted to do. I told her that the reservoir survey was complete, but the survey had not been tied to any staff gauge to determine storage at various water levels. She promised to communicate with me next week about a course of action.