

**RINGERT  
CLARK**  
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LAWYERS

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MAY 24 1995

WATER RESOURCES  
WESTERN REGION

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Department of Water Resources

William F. Ringert  
D. Blair Clark  
James G. Reid  
Jeffrey R. Christenson  
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Laura E. Burri  
Allyn L. Sweeney  
Patrick D. Furey  
Michael J. Doolittle  
David Hammerquist  
Daniel V. Steenson  
Steven C. Mahaffy

Samuel Kaufman (1921-1986)

May 23, 1995

State of Idaho  
Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720

Gentlemen:

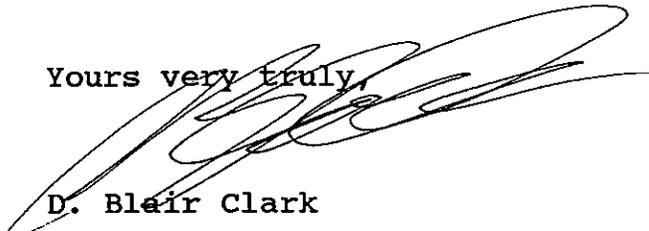
I write as attorney for Carlene Smith and her husband, Ray Smith, and with reference to your letters to Governor Batt prompted by Mrs. Smith's letters to him.

None of us understand why the Department is taking the position that it is doing. The Smiths make no claim to the reservoir water, but rather their 50% share of the water that naturally rises and flows in Sand Springs Gulch. Since the Batruels altered the diversion system to enable them to take all the water out of Sand Springs Gulch, Carlyle Briggs, PE of Boise, Idaho, was appointed by Judge Rowett as a special master. His recommendation to the Court was to dig a parallel ditch for the natural water, which was evidenced in his report and confirmed by Judge Rowett. In other words, the Batruels need to construct a new ditch. This they simply have not done.

Our position is that your watermaster should require the new ditch to be dug. Only by doing that will the problems which were caused by the commingling of water be stopped. However, there is now evidently some question on your department's part as to the order (which I don't understand).

Therefore, please schedule a meeting with the requisite personnel at which Mrs. Smith and I may attend and try to get this matter resolved. Failing that, it may be necessary for us to implead the Department in the Mountain Home litigation and ask for a writ of mandate.

Yours very truly,

  
D. Blair Clark

DBC/t  
cc: Carlene Smith