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RECEIVED

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WATER RIGHTS
SALT LAKE

Dear Mike

This is to thank you for your response to my concerns Also to respond to your findings.

When we first met at the top of Jump Up, years ago. You were friendly. Treated me with respect. And talked in terms I could understand. Our phone conversations. And when you met with me in your office building. Same thing. I appreciate that greatly. I in turn have respect for you. For your position. And for the Utah Water Law that you interpret for us. And enforce

Mike Chamberlin told Merlin Esplin. You guys can turn more water into your system if you need to. This illustrates a lack of respect Mike has. Most importantly to me. For his own position as Water Commissioner Also for you and your position. The River Commission who hired him. And for the law. Mike is just in it for an easy buck. And where he can steal water for Glendale in the process He scores Browne points with his directors.

It is with all due respect that I tell you. Your findings in this matter are incorrect This is entirely due. To your being misled. By Mike Chamberlin.

The Staff Gauge readings I submitted to you. Are true and correct. I tried to get anyone I could to witness what was going on. I continually told Merlin Esplin what I was seeing. I was able to get, Kane County Commissioner Lamont Smith to go with me once. Deputy Kelly Lamb. Took pictures and documented things on July 4th. I have not yet obtained his report.

Only one time, all summer long has the steam flow. Matched the Sluice Gate Settings. This was Sunday afternoon June 26th. This was due to the stream flow falling off to about 55%. Which is where Mike was keeping the Weirs set. And apparently reporting. Where the stream was running at. Or he may have been reporting it even lower. Mike made an adjustment Monday June 27th. Putting orderville down to 40%.

It is apparent that the records Mike has provided you. Have, for the most part, been generated at his kitchen table. And not from actual visits to the Weirs, reading the gauges Or he is just lying

My conclusions are not drawn from my interpretation of percentages But from my many years of doing what I do. There is no one who has visited the sluice boxes and weirs. Of what you call. The big three. As many times as I have. Gary Hoyt would have at one time. But I was here when he started. Watched with great interest What he did. And I am still here long after he was unable to continue. Clarence Spencer likely never caught up. And he finished quite a while ago now. Jeff Medilin did not stay with us very long. I go and read the staff gauges And interpret the streams running away from them and over the crests. To my satisfaction I know when this system is running right. By watching it. You use Balance as the proper term. I will also. Balance has been shown to me by the past

Commissioners

I have always relied on the Water Commissioner to tell me the percentages This particular Commissioner is unreliable at best. Throughout the 2015 season He set the weirs for around 70%. and pretty much left them that way all season. All three systems overflowed most of the year. Due to the storm we received. I could see problems coming. That is why I came to see you and asked for the charts.

I be leave I have had a good relationship with the Commissioners Up until now. Gary never seemed to mind me watching him. Or asking questions of him. He always talked to me as tho he represented the River Commission

Clarence on the other hand always talked of We (Glendale). And you (Mt. Carmel). As I told you in Salt Lake. The only real problem I ever had with him. Was his instance on keeping Glendale's pond running over. Early in the year. He said as long as the pond is running over and the water is going down to you guys. I don't see a thing wrong with it. I tried to get him to make a change one year. Because I could see a problem coming. He refused. The creek doped Glendale turned on a few more lines. And Orderville drained their Pipe. How this did not happen this 2016 season. With them running 40 to 50%. When the creek was still running 70%. Baffles me. Because of mural respect. Clarence and I got passed our differences I consider him a friend. I think he does me also.

I make no denial that my problems with Mike are personal Mike did get ignorant with me without provocation on June 17. He has admitted this to me since. But has offered no apology He does not think a bottom feeder like me should question. Those who ride high on the wave crests of this water. With this, and his Glendale Water master job. He has only been an ignorant little Smart Donkey to me.

June 17, 2016 was the first time I had ever tried to talk to Mike about his Commissioners job. When he said. I'm tired of you guys thinking you can tell me how to do my job. He was already mad at someone else. I received what he does not dare give someone else. This does indeed infuriate me. Since that day I have given Mike no respect at all. He does not deserve it.

None of that changes the facts in this mater.

I was told earlier this year. You are giving Mike to much credit. He is not smart enough to be doing what you are accusing him of. He is just stupid, and lazy. I found this impossible to be leave at first. Then I found it hard to be leave.

After watching him check Mt. Camel's gauge on Monday Aug.15 or Tues. the 16th. And after talking to him the other day about checking the setting of the staff gauge As I have now installed it at Mt. Camel's Weir. I am thinking that I was told correctly. But the people that direct Mike. Are smart enough.

I told Mike when he came to check the head height seting on this gauge I wanted him to have someone creditable with him. That I did not trust him to do it. He pointed at Merlin Esplin. Who we were talking to. I said. "That would be my suggestion"

\ As Mike was telling his version of Tues. the 16th. I asked him two or three times. Are you lying, Or just stupid. Before it was over. I learned the answer was both.

I told them if they wanted to come down now. I would dump the water out of the sluice And they could check the gauge Mike said. "OK but I'll need a level and a tape measure.: Mike did not mean a laser level on a tripod. Or a Transit Level and Rod. He meant a bubble hand level. I had a level and a tape with me. But I didn't offer them. I have installed the gauge in a stilling well. Mike had seen this. There is no way to set it accurately With a hand level and tape measure. I said. "Mike use the water." He thought for a minute. Then said. "Well I guess you could do that." I said. "I know I could. That is how I set it. But now I'm not sure you could."

Mike showed up to check the weir when I was working on it. I got out of the water and let him read the gauge. As it was installed. I didn't install this gauge It was not positioned in the weir pool. But in the draw down. There was about .15' difference from the water running around the back of the post

the gauge was mounted on. And the water that contacted the face of the gauge The past commissioners could see this and determine As best they could the head height of the weir pool. Mike looked at the gauge and said. "Yep 55%. I knew I had been standing in more than 55%. I knew if I traveled to the other weirs I would find more than 55%. I had checked the weirs. The previous Saturday evening. I said. "55% My Donkey." Mike just laughed at me.

I told him that day. "I have not gotten in your way. Or interfered with you in any way." He said "No you haven't." "Also Mike you need to be removed as Water Commissioner. And I will continue to work towards that end"

I have not interfered with him in any way. Mike is not doing the job that we hire him to do. In no way is that my fault. Mike alone is responsible for his stupidity. And the undue influence that some in this valley, have over him.

Mike does not know how a weir operates. Or how to measure the flow from it. The weir he has tampered with for years does not operate properly. It never has! The entire sluice box is in Draw Down Condition. I am not saying the chart you use to determine the flow of Glendale's Weir is inaccurate. I talked with your fellows. A few years back. Right then they were measuring flow of the creek just below the turn out. They explained they would gather data there. At the Weir. And above the Diversion. Then submit the data to you. So you could check the accuracy of this Weir.

They also told me they had to get Mike Chamberlin to let them into Orderville's enclosure for that Weir. This was a few years before Mike became the Commissioner. I admit I slept on this. I never imagined the Commission would give him the job. Given his reputation. Those that know us will tell you this is the Pot calling the Kettle Black. I will say that it takes one, to know one.

Mike did indeed think he was seeing 55%. Or was lying wanting me to think it was 55%. After you know someone is a liar You don't know. Mike lied about this to me in front of Merlin Esplin. I have told Merlin this. He changed his story to. "I didn't say you had 55% . I said the others had 55%. I didn't know Mt. Carmel had more until I got there to look." Bologna. What Mike had done was. Realized that I knew all three companies had more than 55%. Or had went back and read the gauge after I got it installed in the well. Here are the staff gauge readings. And they clearly show far higher than 55%. And I will again try to give the percentages. Please correct as needed.

Sat. Aug 13 7:50 AM. Mt. Carmel .6' 94%, Orderville .185' 55%, Glendale .66' 70%.

Sun Aug 21 9:40 AM. Mt. Carmel .54' 70%, Orderville .18' 50%, Glendale .75' 85%.

This is most likely the best Mike can do to balance the system. As you have instructed him. But it is not within reasonable amounts for system operation. It is not close to the tolerances you have given him. And is totally. Unacceptable.

This all happened after your letter dated August 3, 2016.

Merlin tells me he has instructed Mike to balance the system. And not to run more water to Glendale's pond. To keep it running over. I think you have also. But please address this in writing. So Carry can have it on file. And I can have it to show the Sheriff next time. The Sheriff has informed me that the State has reserved Jurisdiction in these matters. As you have stated Mike is the local authority, and represents the State. But the Kane County Sheriff's Office is the local authority that will be called to investigate Were I to mess with it. Mike has made that clear. As I told him. That is as it should be. The Sheriff will also be called upon. To investigate, and document Mike's actions. This has been done. And he has expressed a willingness to do so. I f needed in the future.

Using the corrected percentages. The drop of the pond. And the readings I have taken prove Glendale's system will take 100% of their diversion right. Merlin also tells me Mike is just repeating the 60% lie. Not originating it. Glendale has no magnetic flow meter Or other such device. To determine this. Nor have they hired anyone who does. The only device available that can determine what Glendale's system will take. Is the weir that Mike operates So whether he can't watch the weir and pond and see this is a lie. Or just tells it anyway. Either way, it disqualify s him from being the Water commissioner.

The sluice gate at Glendale's weir was tampered with, on or just before July 3rd. Mike told Merlin about this. After the Deputy informed him that he was investigating. Had seen and documented it himself. But the Sheriff was not called when Mike discovered it. Why. Because it was shut. Not opened. That is fact. Mike likely knows who did it. I do not think it was not one of Glendale's Directors. Unlike Mike. They are smart enough to realize he is doing them a good job. And are better off not drawing attention to anything. Right now. Instead of setting for what the creek was running. He duplicated his 50% setting. The affects of this storm lasted. Eight or ten days. It was Mike's low flow report. That lasted only one or two days. Please reexamine the data I have provided.

As far as I know. The 2015 season was the Only year, since that sluice box was constructed. That the sluice gate has not been illegally closed. Some years it has happened a number of times. It may well have happened that year. But we all had enough water that I did not pay close attention. Before Mike was the Water Commissioner. It is likely that he was the one doing it most of the time. Remember, he told Merlin to go ahead. I do attribute the fact that this has not happened. As many times per year lately. To the fact that Glendale indeed can not draw their pond down as fast as they once could.

I tried to talk Gary into drilling the shaft above the wheel nut. And putting a lock in it. This would prevent the gate from being shut. But would allow it to be opened to sluice the box. At least a seal like the Power Company's use on their meters could be placed.

I would like to join Merlin. In calling for. Measuring at a site above Glendale's Diversion. To get a base line on about what the creek is running.

I appreciate you telling Mike to check the turn outs. On June 17. I told him he needed to determine what the creek was flowing. The legal way for him to accomplish this would have been to. Open the sluice gate. To the point that Glendale's Pond was just maintaining its level. Then see what he had at the weirs below when the water got there. I told him if he insisted on running the pond over. Then he needed to seal the parshell flume. They had at the pond overflow. And measure the water returning to the creek. This water returns below the turn out. Glendale's consumption could then be determined. What was he reporting as Glendale's consumption? 60%? "Mike said nobody's water that overflows is measured. Orderville's overflow is not measured." I was about to say. It most certainly is. But uncharacteristically I thought. Mike is the one doing the measuring. If he says it is not being measured. Then it is not being measured.

Up to and including July 7th. Of the 2016 season. The creek did not run as low as 50% That is my main point. I checked when I was able on July 17th and did find the creek running 50%.

The variances for time of day that your letter mentions. Are precisely why I provided you both Morning and afternoon readings. On days that I knew that it was critical to determine the flow. As accurately as possible.

As I mentioned in my earlier letter. Due to the summer storms. We are in very good shape here. Considering the winters we have not been getting. We lived through 1998 to 2004. We know what being dry is. Glendale's head of the stream steeling right, didn't even mean much. But they made the best of it.

Your letter mentioned being fair. In mid summer 2003. I told Mike Chamberlin. "This is not about being fair! A lot of things in life are not fair. But what you guys are doing is e legal" Mike just laughed at me.

President Della Soreness had sent out a letter. That stated we want to be fair. The letter stated. one share of Glendale's Irrigation water. Was equal to Two sprinkler heads running for fifteen days. Out of a thirty day schedule. IE 30 head days per month. At 100% stream flow. He divided the fields stock into two groups. 181 & 182 shares. One would think. OK, a top section and a bottom section. Not so. The sections alternated every other field from top to bottom. The fields at the highest elevation would water the same time. As those at the lowest. With the same size nozzles He ordered that a chart he provided be flowed. Listing how many heads. And how many days each stockholder could run. During

their fifteen day period. The stockholders with seven or more shares were calculated at the 30 head day rate. Stockholders with less than five shares were figured at 15 head days. Exactly one half that of the larger stockholders. And one half. What his letter stated a share was equal to. Stockholders with five to six shares were calculated From 18 to 24 head days. Depending on who they were. He ordered that as in the past no fields could water from 10:00 PM Saturday to 7:00 AM Monday. If you figure for two Sundays in the 15 day period. The largest stockholders could still get 24 head days. Della told me this was to give the water to those who were paying for it. Other Company s use user fees. And maybe other legal means. To make payment for service more equatable. Legally, morally, ethically, and fairly the assessment per share. And the water per share, that is delivered. Must be the same! Glendale Irrigation Company's idea of being fair is my definition of Chicken Crap.

I'm going to paste a paragraph from the decision. Of **Supreme Court of Utah. December 30, 1965.**

The evidence shows that from time immemorial and prior to the McCarty Decree of 1900, the parties hereto in using the waters of the East Fork of the Virgin River took distribution on a basis proportional to their respective shares; and that this continued to and including the 1960 season. It also appears that if the waters of this stream were allocated on the basis of date priority as contended by the defendant, the other users, except defendant, would receive little or no water in years of shortage; and that such years of water shortage appear to be more the rule than the exception. In the spring of 1961, the State Engineer, acting in accordance with the claims of defendant Glendale, that it was entitled to take all of its water under first priority by reason of the Cox Decree, first ordered distribution of the water on that basis. In October of that year the plaintiffs brought this action, claiming water for their shares on the share-and-share-alike proportional basis

The State Engineer. Wayne D. Criddle, was also listed as defendant in the case.

There would have been nothing fair. Had the defendants prevailed. But the date priority basis. Is the way you would be directing. Mike Chamberlin to deliver the water today. Again. Glendale Irrigation Company's idea of being fair is my definition of Chicken Crap.

Using the percentages that you supplied. Mike maintained at least a 20% difference between Glendale and Orderville. As much as 35% at times. Up until Sunday June 26. As the creek fell off, it balanced at about 55% on that day. Mike delivered around 50% to orderville the whole time. The creek was running far higher. He adjusted Glendale's sluice gate down to maintain that difference. The days the difference went to 35%, then fell off as the creek did, proves that. The State of Utah owns this water. And the Water Users own the right to use it as dictated by the State. This is purposeful theft of Property. Please explain how this is not criminal.

After Brian Lamb confronted him on Tuesday June 28th. Mike switched gears. He then set Orderville's weir to Deliver 20% more than the others. This is adversarial in the collective efforts that strive to have the water users working together.

It was during this phase of Mike's operation. That we received another dirty flood from up the canyon. He had the majority of available water. Ruining over Ordeville's Weir. Allowing their pipe to overflow. The sluice box and pipe from the diversion. Sanded in. Had the weir been set for balance. This would have been less likely to have happened.

As when Glendale's pond is overflowing. When Orderville's pipe is overflowing. It is precisely The actual amount of water being consumed. By the system. That is the unknown. And is just being guessed at. Mike has water running out the sluice gate and overflow off the screen Together this can be measured at the turnout. But the total amount of water coming from the diversion. And the amount going down the pipe. Are unknown.

Early in the first week of August. I read the weirs. Mt. Carmel .35' 40%. Orderville .24' 80%. Glendale .615' 62.5%. I had had enough. I contacted Eric Esplin. And asked him to see if he could do something about this. Again this 40% difference is not within the tolerances you have given Mike. Is

not within reasonable amounts for system operation. And is completely unacceptable. A couple of days later. Eric called me. He said Mike had reported back to him with staff gauge readings of. Mt. Carmel .40' Orderville .17'. Glendale .535'. To balance the system. Around 51 to 52%. Neither Eric or I could figure. What Mike's point was That is not how he had had the Weirs running.

As I have stated. I respect you. What you do. And how you do it. If the way I state things does not reflect that. I apologize.

Sincerely,

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Attached:

CC:

Mike Chamberlin, Water Commissioner
Merlin Esplin, Chairman, East Fork Virgin River Commission
Orderville Irrigation Company
Glendale Irrigation Company
Southwest Regional Office Division of Water Rights
Kane County Sheriff's Office
La Mont Smith, Kane County Commissioner
Warren Foot, East Fork Virgin River Commission
John Reese, East Fork Virgin River Commission
Eric Esplin, Mt. Carmel Irrigation Company.
Kline Esplin, Mt. Carmel Irrigation Company.
Brigham Johnson, Mt. Carmel Irrigation Company.
Cary Reese, Mt. Carmel Irrigation Company.