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**RECEIVED**

**SEP 12 2014**

September 8, 2014

Ravalli County Commissioners

Ravalli County Commission  
JR Iman  
214 S. 4<sup>th</sup> Street  
Suite A  
Hamilton, MT 59840

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Ravalli County Road and Bridge Department  
Dusty McKern  
244 Fairgrounds Road  
Hamilton, MT 59840

**RE: Water Distribution Matter**

Dear Mssrs. Iman and McKern:

Greetings. I write today on behalf of Dale and Mary Kraft (“Krafts”), who are water users in the Corvallis area. Krafts own 5.5 shares in the Corvallis Canal and Water Company, which entitles them to approximately 318 miner’s inches of the company’s water. Krafts apply this water to their property in Sections 21 and 22, Township 7 North, Range 20 West, Ravalli County. A portion of this water is carried through the Corvallis Canal to a point in E2SW Section 28, where it is diverted, by a lateral, through SE and NE of Section 28. This lateral continues through a culvert beneath Popham Lane (located at 274 Popham Lane) and carries Krafts’ water to their place of use in E2 Section 21 and W2 Section 22.

In December of 2012, the Ravaili County Road and Bridge Department replaced a failing culvert located at 274 Popham Lane in Corvallis. Mr. Kraft was present during the replacement and raised several concerns at that time regarding the placement of the culvert, specifically that the new culvert was not seated as deeply as the older culvert. Mr. Kraft’s concern was that the culvert’s higher positioning would interfere with the flow of water to his property. At that time, Mr. Kraft offered to purchase a larger culvert to compensate for the higher placement. It is my understanding that the County was not interested in Mr. Kraft’s offer at that time.

Since the installation of the new culvert, Krafts have experienced significant difficulties with water distribution immediately north of Popham Lane. The new culvert appears to be both too small and set too high, negatively affecting Krafts’ flow of water.

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I am in receipt and have reviewed the County's offer to Krafts with regard to replacing the present culvert. I understand that utility lines may pose an issue with regard to culvert placement. It would appear, however, from the June 1, 2014, letter to Mr. Kraft that the County will only consent to culvert replacement under the following circumstances.

- Krafts attain a liability policy for the new culvert.
- Krafts assume all responsibility for utility line relocation or lowering.
- Krafts assume responsibility for removing the existing culvert in usable condition. In the event that the existing culvert is unuseable after removal, Krafts are to pay the County for the difference in pipe costs for the next larger culvert.
- Krafts assume responsibility for removing existing asphalt and installing pipe.

Understandably, these conditions are extremely concerning to Krafts, especially as they feel the disturbance could have been avoided at the onset of installation.

Montana Code Annotated § 70-17-112(2) states that a person may not encroach upon or otherwise impair any easement for a canal or ditch used for irrigation. The culvert, as it is currently situated, constitutes such an impairment.

It is Krafts' sincere wish that this issue be resolved amicably and with minimal hassle to the parties involved. As such, we would respectfully request that the County revisit those conditions for culvert replacement set forth in the June 1, 2014, letter to Mr. Kraft. We would also request an opportunity to meet informally with you about resolution of this issue.

I understand that you are both extremely busy individuals, but I would really appreciate the opportunity to communicate with you about the culvert by **October 8, 2014**. I'm eager to hear any thoughts you might have regarding resolution of the issue. I can be reached Monday through Friday, 8:00 a.m. to 5:00 p.m., at (406) 502-1244. My mailing address is set forth in the caption above and my e-mail address is [rkinkie@helenalaw.com](mailto:rkinkie@helenalaw.com).

Sincerely,



Rachel A. Kinkie  
Senior Associate Attorney

3023.001 - PL 207945  
cc: Dale and Mary Kraft