

# PEPPERDINE UNIVERSITY

SCHOOL OF LAW  
INSTITUTE FOR DISPUTE RESOLUTION

November 14, 1994

Dr. Walter T. Brown, Jr.  
Center for Scientific Creation  
5612 N. 20th Place  
Phoenix, Arizona 85016

Dr. Steven A. Austin  
Institute for Creation Research  
10946 Woodside Avenue N.  
Santee, CA 92071

Dear Dr. Brown and Dr. Austin:

This letter is in response to your requests for reconsideration and refinement of my proposed arbitration decision regarding the content of footnote 40 in Dr. Austin's book and the letter to be sent to those affected by your dispute. I again apologize for the length of time it has required to review your materials and respond. As was the case the first time, I took your correspondence and suggestions with me while making presentations out of town and was able to thoroughly review and contemplate your concerns.

Enclosed you will find revised drafts of footnote 40 and the letter explaining the situation to the 50 individuals identified by Dr. Brown. As you review those documents and the remainder of this letter, you will observe a fundamental difference in my understanding of how our meeting in Orange County concluded and the purpose of these documents. My understanding was that both of you had agreed to disagree in exchange for mutual commitments of mitigation and reconciliation for the future. Thus you will note that in the enclosed drafts of footnote 40 and of the letter to interested individuals, I have gone to great lengths to not declare a winner and a loser or a good and a bad guy. I understood my role was to help you in crafting the neutral language in these documents rather than providing my opinion as to each of your integrity and the merits of your cases.

I did make some minor changes but diligently sought to avoid slanting the documents in favor of one or the other of you. It is my determination that the revised footnote 40 is to be enclosed in the book as the "errata sheet."

The revised letter is also enclosed for your review. Please advise Kathryn Blankinship within five days if you would like to be a signator to the letter or if you would prefer me to be the only signator to the letter. Either both of you should sign it, or I will be the only signator. The request for a "not agree" provision for signatures will create controversy and thus is denied. My office will distribute the letter within ten days unless you both request that this letter not be sent.

I concede to Dr. Austin that I have no jurisdiction regarding the name that he uses for the Grand/Canyon Lands Lake in the text of his book and otherwise. My jurisdiction is provided in

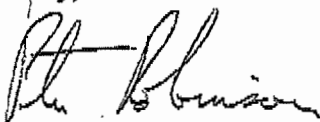
the agreement that you reached with Kathryn Blankinship and only authorizes me to resolve differences of opinion regarding footnote 40 and the content of the letter to interested individuals. Therefore, all of my comments regarding the name Dr. Austin uses to refer to this body of water in my earlier correspondence must be deemed advisory and non-binding.

I am concerned that neither of you are satisfied and that this controversy may not be resolved. My interpretation of your correspondence to me and observation of your apparent inability to resolve matters in your telephone conversations leads me to suspect that the two of you still have some interest in continuing your conflict. Specifically Dr. Brown's proposed rewording of the footnote and letter as well as Dr. Austin's unwillingness to readopt Dr. Brown's title of Grand Lake suggests to me that you each still desire some amount of vindication from this controversy. I may have been very much in error in my understanding at the conclusion of our meeting that the two of you desired to make reasonable gestures of reconciliation in order to put this matter behind you without the effort necessary to declare a winner and a loser.

Another possibility is now that you are seeing the content of footnote 40 and the joint letter, you may prefer to continue the controversy, either in the form of returning to the exchange of accusations among your respective constituencies or to invest the time and energy for an arbitration panel to declare a winner and loser. Please know that I will not be offended if you request the Center for Conflict Resolution to convene an appropriate panel to conduct the necessary investigation and to assign blame for the origination and continuation of the accusations and conflict. I presume that such would include a finding as to whether there is adequate proof to determine whether plagiarism occurred, and if so, by whom. To me, it would be much better for each of you to consider whether you can "suffer the wrongs you feel you have suffered" and make every effort to seek a reconciliation. In my mind, such would include for Steve to, as a gracious gesture, adopt the name of Grand Lake and for Walt to endure the possible misinterpretation of these proceedings and documents that he has plagiarized from Dr. Austin. While I offer my opinion on this matter, the decision is yours and I certainly will understand and respect if you decide otherwise.

I am impressed with both of your scientific abilities represented by the thoroughness with which you addressed the issues raised. It has been an honor to seek to assist you. I apologize that I have not been more successful and pray that the Lord blesses you both in your kingdom ministries.

Sincerely,



Peter Robinson  
Associate Director and  
Assistant Professor of Law

PR:sw

cc: Katherine Blankinship  
Honorable Jack Crickert  
Gregory Wood, Esq.

## Joint Statement

Dear Colleague:

This letter is to inform you about the resolution of the controversy involving Dr. Walt Brown and Dr. Steven A. Austin. You were selected to receive this letter as an interested person or someone who was probably aware of the controversy.

The controversy concerns the theory that the Grand Canyon was formed by the breaching of a lake that existed Northeast of what is now the Grand Canyon. Dr. Brown and Dr. Austin agree that this body of water, in addition to Hopi Lake (East of the Grand Canyon), existed. Both men contributed toward advancing this theory. Specifically, Dr. Brown applies a hydroplate theory to explain a rapid rise of the Kaibab Upwarp and several related geological phenomena that he identified in the Western United States. In 1988, he conducted extensive field work to locate and explore the basin where he believed a body of water formerly existed in Southeastern Utah and parts of Colorado, Arizona and New Mexico. He named it "Grand Lake." He claims that a series of dam breaches occurred like falling dominoes, including one at Grand Lake followed immediately by one at Hopi Lake. The total waters released carved Grand Canyon. Dr. Brown acknowledges the work of several scientists in advancing the existence of this lake including Dr. Edmond W. Holroyd, III and Dr. Bernard E. Northrup.

The controversy developed after both Dr. Austin and Dr. Brown published descriptions of how Grand Canyon could have formed by the breaching of a dam and included lake maps. The similarities between explanations initiated a controversy concerning who should be credited with the origin of ideas, whose nomenclature should be used, and whose contributions should receive attribution. Dr. Brown believes that Dr. Austin utilized information from Brown's radio interviews and one of Brown's publications without proper attribution. Dr. Austin believes that Dr. Brown's field research on the erosion of Grand Canyon was impacted by Brown's reading one of Austin's publications. Lectures and other activities by both scientists resulted in a controversy involving whether Dr. Austin utilized any of Dr. Brown's contributions without attribution and whether Dr. Brown utilized any of Dr. Austin's contributions without attribution.

Dr. Brown, Dr. Austin and Dr. Henry Morris attended a meeting convened by the Center for Conflict Resolution, a Christian Conciliation Service ministry, in Orange County on June 21, and presided over by the Honorable Jack Crickert, a retired Los Angeles Superior Court Judge, Gregory Wood, a prominent intellectual property attorney, and Peter Robinson, the Associate Director for the Institute for Dispute Resolution and Assistant Professor at Pepperdine University School of Law. The objective of the meeting was to resolve these matters and allow both men to labor side by side in the advancement of the creationist movement.

A cordial but intense discussion was held for more than four hours and concluded with many questions unanswered and many issues unresolved between the parties. Even so, Dr. Brown and Dr. Austin agreed that the matter should be concluded on the following terms:

1. Both men would make a sincere effort to develop a collegial and professional interpersonal relationship.
2. They would not allege that either had taken the other's material without attribution.
3. Dr. Austin would rewrite an endnote of his Grand Canyon Guidebook to reflect a greater appreciation for Dr. Brown's contributions in this matter.
4. They would distribute this joint statement to up to 50 people in the creationist movement who were aware of and may have been affected by knowledge of this controversy and to anyone who would raise this matter with either man.

Dr. Austin and Dr. Brown request your prayers and support in their commitment to seek to implement this agreement. Your acceptance of this statement without additional investigation or discussion will be one of the ways that you can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Peter Robinson". The signature is written in black ink and is positioned above the typed name.

Dr. Peter Robinson  
Mediator/Arbitrator, Center for Conflict Resolution and  
Associate Director and Assistant Professor of Law  
Institute for Dispute Resolution  
Pepperdine University  
School of Law

ATTACHMENT A AUSTIN'S RECOMMENDED ENDNOTE #40 REVISION  
(JULY 25, 1994)

The concept of rapid breaching of the Kaibab Upwarp by drainage from lakes has a long history. The concept was expressed by J.S. Newberry in 1861 ("Geological Report," in J.C. Ives, Report Upon the Colorado River of the West [U.S. 36th Cong., 1st session, House Executive Doc. 90, pt. 3, 1861], 154 p.), and hints followed in the work of Eliot Blackwelder in 1934 ("Origin of Colorado River," *Geological Society of America Bulletin* 45 [1934]: 551-566). Geologic evidence of a large lake in northeastern Arizona ("Hopi Lake") was provided by Howell Williams ("Pliocene Volcanoes of the Navajo-Hopi Country," *Geological Society of America Bulletin* 47 [1936]: 111-172). Tectonic activity is thought to have interrupted the flow of the Colorado River creating a large lake behind the Kaibab Plateau followed by piping failure (G. C. Bowles, "Reinterpretation of Grand Canyon Geomorphology," *United States Geological Survey Professional Paper* 1100 [1978]: 72). Creationists were suggesting catastrophic drainage models in the 1950's and 1970's. One of the most noteworthy early creationist statements of the breached dam theory appeared in the writings of Clifford L. Burdick (*The Canyon of Canyons* [Caldwell, Idaho, Bible-Science Association, 1974], p. 27). Bernard E. Northrup proposed in 1968 that erosion of Grand Canyon was caused by release of trapped glacial melt waters in the post-Flood period centuries after Noah's Flood. Post-Flood ponding of water east of Grand Canyon behind a tectonic upwarp was suggested as the cause leading to cutting the Canyon by Steven A. Austin and John H. Whitmore (*Grand Canyon Field Study Tour Guidebook*, March 23-30, 1988 [Santee, California, Institute for Creation Research, 1988], p. 48). Edmond W. Holroyd, III, recognized that a lake bigger than one of the Great Lakes could be contained upstream of Grand Canyon if the Canyon was blocked approximately at the 5,600-foot elevation ("Missing Talus," *Creation Research Society Quarterly* 24 [1987]: 15, 16). The breached dam theory was described in 1988 in a field guidebook (Steven A. Austin, *Grand Canyon Field Study Tour Guidebook*, April 9-16, 1988 [Santee, California, Institute for Creation Research, 1988], pp. 50-54). ~~A theory concerning the breached dam theory, including names and locations of lakes mentioned by Walter T. Brown, Jr. in the Beginning Book,~~

~~Arizona, Center for Scientific Creation, fifth edition, 1989, pp. 88).~~ Interesting field evidences for catastrophic drainage of lakes and dialog concerning the history of discussions is found in Edmond W. Holroyd, III ("Missing Talus on the Colorado Plateau," *Proceedings of the Second International Conference on Creationism*, 2 [1990]: 115-128). A summary of some of these theories was published by E. L. Williams, J. R. Meyer and G. W. Wolfram ("Erosion of the Grand Canyon of the Colorado River: Part III--Review of the Possible Formation of Basin and Lakes on Colorado Plateau and Different Climatic Conditions in the Past," *Creation Research Society Quarterly* 29 [1992]: 18-24). Further comments were provided by Michael J. Oard. ("Comments on the Breached Dam Theory for the Formation of the Grand Canyon," *Creation Research Society Quarterly* 30 [1993]: 39-46).

In 1989, Walter T. Brown, Jr. in proposing the Hydroplate Theory, also proposed where a very large lake, at an elevation of 5700 feet, once occupied much of southeastern Utah and parts of Colorado, Arizona and New Mexico, (*In the Beginning* [Phoenix, Arizona, Center for Scientific Creation, fifth edition, 1989], 58-83). Brown named it Grand Lake and wrote that it breached between what is now Vermilion Cliffs and Echo Cliffs. This, in turn, eroded the western bank of Hopi Lake. All the waters released eroded the Grand Canyon.