



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

June 10, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Chairman and Board Members
Parma Ditch Company
29318 Klahr RD
Parma ID 83660

RE: Ditch Diversion Works

Dear Chairman and Board Members:

The purpose of this letter is to forward the concerns expressed by Rex Barrie, Boise River Watermaster to this office regarding your diversion control works on the Boise River. The Watermaster indicates your control works is in a poor state of repair and is not adequate to properly control diversions to your ditch. There is also a public safety concern along your ditch downstream should there be a flood/storm event impacting the river.

Idaho Code 42-701 Installation and maintenance of controlling and measuring devices by water appropriators addresses the need for suitable controlling works and measuring devices for water diversions. The statute in part states the following:

(1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources (Department) suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the water master or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point.....

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices or has an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) day notice from the Department within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the Department may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion.

I would encourage the Company to work with the Watermaster in the replacement /repair of the control works to meet the needs of the Water District, Ditch Company, and public safety.

Should you have questions, please contact me at the Western Regional Office, phone 334-2190.

Sincerely,

A handwritten signature in cursive script that reads "John Westra".

John Westra, Manager

Letter- hand delivered via R Barrie, Watermaster
Enclosure: IC 42-701

enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

(5) All appropriators of the public waters of the state of Idaho who are given thirty (30) days' written notice by the director prior to the beginning of the irrigation season but no later than March 15 of any year, shall measure their water diversions and report said diversions annually thereafter on a form approved by the director of the department of water resources. Such report shall include: a legal description of the point of diversion, the number assigned to each water right diverting from the public waters of the state, the maximum authorized rate of diversion, the maximum rate at which diversions have been made during the reporting period, the total volume diverted during the reporting period, and a description of the physical changes to the diversion works that have been made during the reporting period. The appropriator shall furnish each year the depth to water in any well prior to commencement of pumping, the depth to water during the pumping period, and the pressure in the pipe distribution system during diversion if the well is not free flowing. When the director of the department of water resources determines that any person is in substantial violation of any provision of this section or any rule, permit, condition of approval or order issued or promulgated pursuant to this section, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Subsections (5) and (6) of this section shall not apply to:

(a) any appropriator or water user with respect to a water right included in an active water district created pursuant to chapter 6, title 42, Idaho Code, the annual report of which meets the reporting requirements of section 42-708, Idaho Code;

(b) any irrigation district or ground water district having shown to the satisfaction of the director that they are currently making and recording sufficient measurements of their diversions with measuring methods acceptable to the director and upon their agreement to provide an annual report of their diversions to the director in substantially the same form as required in section 42-708, Idaho Code; and

(c) any water right included in an active water measurement district created pursuant to this chapter.

(6) The director of the department of water resources shall collect a report processing fee of twenty-five dollars (\$25.00) per diversion required to be reported, including those diversions covered by an agreement in lieu of a measuring device as provided in subsection (2) of this section. Such fee shall be submitted with the annual report of diversions and well data. All such fees received by the department shall be deposited in the water administration account created pursuant to section 42-238a, Idaho Code, for use by the department to collect, analyze and report water use information and to regulate water withdrawal and use.

(7) All domestic uses, as defined in section 42-111, Idaho Code, and all stock watering uses, as defined in section 42-1401A, Idaho Code, shall be exempt from the measuring device installation and maintenance, measuring and reporting requirements of this section.