

Date: Sept. 17. 2013

- Remove Point of Diversion Located @
TWN 23N R 22E Sec. 36 NWSW

Also known as Bill's Ditch

from water rights: 75-4005

75-10061AH

75-10062AG

75-13313

• I want out of the Bill's ditch that uses the
diversion listed above.

John Wayne Campbell 9-17-2013

756-4241

RECEIVED

SEP 17 2013

Department of Water Resources
Eastern Region



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

August 23, 2013

**RE: Updated Bills Ditch Lateral Ditch Water Users Association Status
and Updated Project Costs.**

Dear Bills Ditch Water User:

As you are aware, you are a water user that receives water through a ditch system commonly referred to by IDWR and other locals as the Bills Ditch. Because of landslide activity from last year, it was necessary to perform reconstructive work to the ditch. Additionally, over the past few months, additional work on the ditch has been necessary to repair two other breaks downstream from the prior slide.

As you know, we have made significant efforts to try to formally organize a lateral ditch water users association under the provisions of Chapter 13, Title 42, of the Idaho Code. No one other than Linell Bills appears interested in that approach. Our position is that Idaho Code § 42-1301 states that such an association exists by default when three or more people take from a common ditch. Therefore, because no one appears to be interested in a formal organization of the ditch with more specific provisions, we intend to operate the ditch under the default provisions of Idaho Code § 42-1301 *et seq.* Because Linell Bills is the majority user of the ditch, and no one else seems interested, we consider her to be the chairperson, and to avoid any confusion with other diversions on Freeman Creek, we have elected to call the association the Bills Ditch Lateral Ditch Water Users Association because this is how IDWR refers to it.

We have included a spreadsheet which provides an updated amount owed by each of the ditch users for the repairs done to the ditch on a *pro rata* basis as provided under Idaho Code § 42-1303. The recent repairs done this year cost just over \$26,000.00. As you can see from the spreadsheet, the total cost for the ditch repairs from last year and this year is over \$75,000.00. We have therefore updated the cost that is owed by each of the parties. We should note that only two people paid the prior amount that was due and owing, and we request that each of you pay your pro-rated share. As you can see, because Linell is the largest user, her allocation is over \$51,000.00.

In conjunction with operating the ditch, Ben Stevenson will serve as the lateral manager, for the remainder of this year. In managing the ditch, we have discovered that a number of diversions do not have a lockable headgate and a measuring device that will aid the manager in

Established in 1896

August 23, 2013

Page 2 of 2

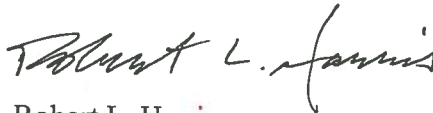
delivering water. This letter therefore requests that you install such devices prior to the next irrigation season. If these devices are not installed by that time, then the manager will not deliver water to you.

In addition, pursuant to the provisions of Idaho Code § 42-1305, the manager "shall not distribute any water to such water user while delinquent in such payment except under order of the Board of Directors of the association who shall have authority to cause such water to be delivered: provided, the water user shall give such security for the payment of such assessment against him as shall be required by the board of directors." Please remit payment to Linell Bills as soon as you are able as outlined in the enclosed sheet. To the extent these amounts remain unpaid, water will not be delivered to you next year, unless appropriate security is provided as outlined in Idaho Code § 42-1305.

As indicated in our prior letter, to the extent that you instead desire to opt out of being a member of the ditch, Linell has agreed to cover your portion of the fees that are due to her this year. However, this offer expires at the end of this irrigation season.

We obviously regret the need to even spend money to repair the ditch as we have done. However, due to the natural circumstances beyond our control, repairing the ditch was simply absolutely necessary. We trust that each of you will honor your responsibilities to pay your proportionate share of the ditch repairs as required under Idaho law. If you have any questions or concerns, please call me at 208-523-0620.

Best Regards,



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosure

Bills Ditch LDWUA Project Costs Updated August 23, 2013

\$ 75,251.70

Water Right No.	Name on Water Right	Address	Priority Date	Individual Diversion Rate Limitation (cfs)		VOTES	Percentage of Total Votes	Shared Cost of \$75,251.70	Individual Acre Limitation		Percent of Total Combined Acres
75-4334	Carmen Land & Livestock, Inc. (Dave McFarland)	PO Box 124 Carmen, ID 83462	04/01/1915	0.6		30	0.05	OUT OF DITCH	15		3.68%
75-14726	Wesley and Raymond Dana	PO Box 134 Carmen, ID 83462	04/01/1914	0.3		15	0.03	\$ 1,956.28	7.1		1.74%
75-14727	William and Mary Clementz	PO Box 225 Carmen, ID 83462	04/01/1914	0.1		5	0.01	\$ 652.09	4		0.58%
75-2123	Nancy Linell Bills	PO Box 137 Carmen, ID 83462	05/25/1954	6	7.89	394.5	0.68	\$ 51,450.25	297.1		72.84%
75-10630				1.89							
75-4305	Alan Harber	PO Box 194 Carmen, ID 83462	08/29/1918	0.1	0.45	22.5	0.04	\$1,020.10 (PAID PRIOR BALANCE OF \$1,914.33)	4.6	14.3	3.51%
75-4315				0.15					5		
75-14240				0.2					4.7		
75-4005A	Luke and Debbie Russell	17715 N. Cache Bar Hayden, ID 83835	04/01/1915	0.09		4.5	0.01	\$ 586.89	3		0.74%
75-10389	Tim Pilkerton	PO Box 196 Carmen, ID 83462	04/01/1949	0.08		4	0.01	\$ 521.68	1.9		0.47%
75-14450	Donald E. York, Jr.	19262 Kendall Dr. San Bernardino, CA 92407	04/01/1949	0.3		15	0.03	\$ 1,956.28	12.2		1.76%
75-14282	James and Rebecca Paulekas	13699 Lake Ave. Nampa, ID 83651	05/01/1885	0.06	0.38	19	0.03	\$ 2,477.96	13		3.19%
75-14284			05/01/1888	0.09							
75-14286			05/01/1875	0.05							
75-14288			05/01/1882	0.03							
75-14366			05/01/1915	0.15							
75-14490	Billie and Geary Spath	PO Box 12 Carmen, ID 83462	10/16/2007	0.04		2	0.003	\$90.68 (PAID PRIOR BALANCE OF \$170.16)	2		0.49%
75-7353	William and Donna Inman	PO Box 206 Carmen, ID 83462	04/20/1983	0.12	0.11	8	0.01	\$ 1,043.35	6.1	4	1.54%
75-10680	Donna Inman		04/01/1915	0.08					4		
75-13944			04/01/1915	0.05					2.3		
75-14283	John Aldous (only a portion of his rights are included based on watermaster list)	PO Box 44 Carmen, ID 83462	05/01/1885	1.44	0.9	45	0.08	\$ 5,868.85	145	25	6.13%
75-14285			05/01/1888	1.91					145		
75-14287			05/01/1875	1.11					214		
75-14289			05/01/1882	0.61					214		
75-14365			04/01/1915	3.49					214		
75-4005	John Wayne Campbell (only a portion of his rights are included based on watermaster list)	PO Box 49 Carmen, ID 83462	04/01/1915	3.7	0.25	12.5	0.02	\$ 1,630.24	104.1	7	1.72%
75-10061AH			05/01/1875	0.29					104.1		
75-10062AG			05/01/1882	0.16					104.1		
75-13313			06/01/1948	0.18					5.3		
75-13314			06/13/1912	0.11					5.2		
			TOTALS	11.54		577		\$ 68,143.87	407.9		