



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER

Governor

GARY SPACKMAN

Director

April 23, 2013

Steve Howser  
General Manager  
Aberdeen Springfield Canal Company  
144 South Main  
P.O. Box 857  
Aberdeen, ID 83210

RE: New ASCC Policy on use of Recovery Head Gates

Dear Steve,

After reviewing water bank applications and other correspondence, the Idaho Department of Water Resources ("IDWR") recently became aware that the Aberdeen Springfield Canal Company ("ASCC") adopted a new policy to accommodate certain requests for surface water deliveries to lands historically irrigated by groundwater. IDWR understands the new policy requires that shareholders seeking delivery of surface water to eligible lands previously irrigated by groundwater apply to ASCC for a new point of delivery on the ASCC system. Upon surrendering control of the existing irrigation well, ASCC proposes to re-characterize the existing irrigation well as a 'Recovery Head Gate' and approve the new point of delivery for the shareholder to pump the surface water entitlement from ASCC.

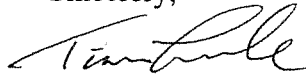
IDWR and ASCC have discussed the concept of recovery wells and the applicability of I.C. § 42-228 in the past. As you are aware, IDWR is concerned that recovery wells be drilled and operated in a manner consistent with I.C. § 42-228 to ensure that only surface water from the canal company is recovered. Specifically, I.C. § 42-228 allows canal companies to open wells and withdraw water for the sole purpose of recovering groundwater resulting from irrigation under surface water previously diverted by the canal company.

Although IDWR admittedly is not familiar with all facets of ASCC's new policy designating existing irrigation wells as recovery head gates, IDWR believes the approach is inconsistent with Idaho water law and should not be authorized. The irrigation wells that IDWR recently reviewed in relation to the new ASCC policy were not owned by ASCC at the time the wells were drilled or at any other time. Although ASCC now is requiring shareholders to surrender control of the well to ASCC, the wells were not drilled for the sole purpose of land drainage or recovery. In fact, the wells were drilled and historically pumped for the express purpose of irrigation and the original well owners perfected ground water rights specifically for irrigation purposes. Further, I.C. § 42-228 does not contemplate an alternative to convert irrigation wells to recovery wells as appears to be proposed under the new ASCC policy.

Should ASCC elect to drill a new recovery well, it will need to apply for a drilling permit from IDWR. IDWR will require ASCC to provide detailed hydrologic information to ensure that the water extracted from an approved recovery well is limited to only the water resulting from canal companies surface water irrigation practices. After reviewing the hydrological information, IDWR may include special well construction conditions on the drilling permit to ensure that any recovery well only recovers canal company irrigation water and is not withdrawing water from the common public aquifer.

Shareholders and water bank renters relying on this new ASCC policy approach of converting existing irrigation wells to 'Recovery Head Gates' for delivery of its surface water supply risk potential curtailment of the wells by the water district watermaster and IDWR enforcement action for illegal diversion of water under I.C. § 42-351.

Sincerely,



Tim Luke  
Bureau Chief, Compliance Bureau

c. Rob Harris  
Lance Funk  
Gary Spackman, Director, IDWR  
James Ceffalo, Watermaster, Water District 120  
IDWR Eastern Region