

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

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Department of Water Resources
Eastern District Office

IN THE MATTER OF REQUIRING MEASURING DEVICES)
AND ORDERING WATERMASTER CONTROL OVER INSTREAM)
PUMP DIVERSIONS ON THE BEAR RIVER WITHIN)
WATER DISTRICT 11)

ORDER

This matter having come before the Idaho Department of Water Resources (Department) as a result of a request from the watermaster of Water District 11, the Department finds as follows:

FINDINGS OF FACT

1. The rights to the use of the waters of the Bear River and its tributaries have been determined by a decree of the District Court of the United States in the case of Utah Power & Light Co. vs. The Last Chance Canal Co., dated July 14, 1920.
2. Water District 11, which includes the Bear River and its tributaries is an active water district under the laws of Title 42, Chapter 6, Idaho Code.
3. During low flow periods, the watermaster of Water District 11, must measure the flows diverted from the Bear River and its tributaries and regulate all diversions by setting the headgates, measuring devices and/or controlling works.
4. There are a number of instream pump diversions from the Bear River which are not equipped with adequate measuring devices and/or controlling works.

CONCLUSIONS OF LAW

1. Section 42-703, Idaho Code, provides in part:

42-703. Measuring devices along streams.--It shall also be the duty of those using water in any district to place in the streams from which said water is diverted and at such places and intervals on said streams as the department of water resources may require suitable systems or devices for measuring the flow of water.

2. To properly distribute the waters of the Bear River, the watermaster must measure flow and have complete control over diversions on the Bear River.

3. Proper measuring devices have not been installed on all diversions from the Bear River.

4. Section 42-703, Idaho Code, authorizes the Department to order the installation of measuring devices along streams.

ORDER

IT IS THEREFORE, HEREBY ORDERED:

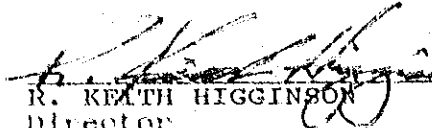
1. That those waterusers identified on Attachment A of this order diverting water from the Bear River and Ovid Creek with instream pumps, shall install totalizing flow meters and controlling works of a type acceptable to the Department on or before April 20, 1991.

2. That the watermaster shall have complete control of all instream pumps and controlling works on the Bear River owned or operated by those users identified under Attachment A.

3. No water from the Bear River or Ovid Creek shall be delivered by the watermaster of Water District 11 after April 20,

1991, to any wateruser with an instream pump diversion and who is identified on Attachment A of this order, that does not have adequate measuring devices and/or controlling works as determined by the watermaster.

Dated this 14th day of FEBRUARY, 1991.


R. KEITH HIGGINSON
Director

Attachment A

Bruce Lamont
3523 South 1600 West
Preston, ID 83263

Dean Kunz
272 N. 4570 E.
Rigby, ID 83442

Wayne Kunz
866 Adams
Montpelier, ID 83254

Reed Kunz
Burn, ID 83220

Stewart Crane
87 S. 1st E.
Bennington, ID 83254

Bob Herderson
3655 N. 1600 E.
Preston, ID 83263

Keith Hodges
2082 W. Hot Springs Rd.
Preston, ID 83263

Randy Panter
14885 N. HWY 34
Thatcher, ID 83283

Dean Hogan
327 River Rd.
Thatcher, ID 83283

Carrol Whitney
4988 S. 2400 W.
Weston, ID 83286

Riverdale Preston Irrigation
C/O Wilford Meek
3659 N. 1600 E.
Preston, ID 83263

McGee Harris
1501 Eightmile Creek
Soda Springs, ID 83276

David Coombs
17315 Cleveland Rd.
Grace, ID 83283

George Wanlass
91 River Rd.
Thatcher, ID 83283

Paul Kunz
Bern, ID 83220

Lyle Stephens
Star Rt. 2
Montpelier, ID 83254

Allen Phelps
128 S. Main
Bennington, ID 83254

Ben Johnson
136 N. 1st W.
Preston, ID 83263

L. Jr. White
15516 N. Cleve
Preston, ID 83263

Floyd Johnson
1580 W. 1600 S.
Preston, ID 83263

Elsie E. Bastian
P.O. Box 87
Weston, ID 83286

Charles Wood
P.O. Box 815
Meridian, ID 83642

Stephen Kunz
Bern, ID 83220