

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF REQUIRING MEASURING DEVICES)
AND ORDERING WATERMASTER CONTROL OVER ALL)
HEADGATES, CONTROLLING WORKS AND OUTLET GATE) ORDER
CONTROLS ON THE BEAR RIVER WHICH COMPRISES)
WATER DISTRICT 11.)

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 FACTS

1. Certain rights to use the waters of the Bear River above Montpelier, Idaho have been determined by a decree of the District Court of the State of Idaho in the case of Preston-Montpelier Irrigation Co. vs. Dingle Irrigation Co. dated March 7, 1924.

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 regulate all diversions by setting the headgates and/or controlling works.

4. Not all the diversions from the Bear River are equipped with adequate measuring devices and/or controlling works.

CONCLUSIONS OF LAW

1. Section 42-701, Idaho Code, provides:

42-701. Maintenance by appropriators--Procedure upon failure to maintain.-- The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the department of water resources suitable headgates and controlling works at the point where the water is diverted, which 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 and such appropriator shall construct and maintain when required by the department, a rating flume or other measuring device at such point as is most practical in such a canal or ditch for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said ditch from the stream. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources: provided, that should any appropriator or user of the public waters of the state of Idaho neglect or refuse to construct or maintain such headgates, controlling works or measuring devices, upon receiving ten (10) days notice from the department of water resources within which to begin to remedy such defects as exist in accordance with said notice, then the department of water resources may order the duly qualified and acting water master of the water district to shut off and refuse to deliver at the point of diversion, the water claimed by such appropriator or user until he does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist: provided that such 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.

2. To properly distribute the waters of the Bear River, the watermaster must measure the flow and have complete control over all the headgates and controlling works at all diversions, dams and reservoirs on the Bear River.

3. Proper measuring devices, headgates and controlling works have not been maintained in a suitable condition to adequately measure flows on all diversions, dams and reservoirs on the Bear River.

4. Section 42-701, Idaho Code, authorizes the Department to order the installation and maintenance of measuring devices, headgates and/or controlling works.

ORDER

IT IS HEREBY ORDERED:

1. That those water users identified in Attachment A of this order who divert water from the Bear River through the Sorensen and Lloyd Ditches are required to install and maintain measuring devices and lockable controlling works of a type acceptable to the Department prior to May 10, 1992.

2. That the watermaster shall have complete control of all headgates and controlling works at all points of diversion on the Bear River, including the Sorensen and Lloyd Ditches.

3. The watermaster of Water District 11 shall not deliver water after May 10, 1992 from the Bear River to the Sorensen and Lloyd Ditches if said diversions do not have adequate measuring devices, headgates and/or lockable controlling works as determined by the watermaster.

Dated this 28th day of April, 1992


R. KEITH HIGGINSON
DIRECTOR

ATTACHMENT A

Tracey Baxter
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