

W A T E R D I S T R I C T #31
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RECEIVED

August 5, 1994

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Department of Water Resources
Eastern District Office

Mr. Ray Kagel
Army Corps of Engineers
1820 E 17th Street Suite 350
Idaho Falls, ID

Dear Mr. Kagel:

After receiving your recorded phone message on 7/28/94, with such message being directed to myself as watermaster and to Greg Shenton as my deputy watermaster, I would like to state to you some concerns that I and other people have concerning your directives. For purpose of understanding your directive, you left a message for us not to remove any beaver dams with out contacting you as we may need a permit from you to do so.

My first question is what happens if you do not approve a permit? By what authority do you make such a directive and I would very much like a printed copy of that authority. What determines the criteria for allowing a permit and what criteria determines whether you need a permit or not?

The historical practice of removing obstructions to the flow of water from a natural channel when that flow is being directly diverted from that stream by that obstruction, then that obstruction has always been removed either by the watermaster, or the land owner, or I.D.F.G. agent.

The Idaho stream channel alteration rules and regulations also exempt the use for a permit when it comes to removal of an obstruction in a stream channel.

The Federal Court Decree under which we deliver water gives directives to remove obstructions from the streambed both on private and public lands and a mechanism of how to recover expense for doing so.

The Clark County land use plan, under the water policy section, defines an obstruction to a stream when that stream is being diverted by that obstruction.

The above historical practices and authority's listed have worked real well by cooperation between parties involved from the Water District, I.D.F.G., U.S.F.S, and landowners. When a problems occurs in which a creek bed is being dewatered or water rights are being injured, or domestic or livestock watering being threatened by obstructions to the flow, then that obstruction is removed and in the case of beaver dams the beaver are reduced in numbers in

the immediate problem area usually by I.D.F.G. This is the only way this process can work and protect, private property rights decreed water rights, protection from flooding crops and property, and dewatering of stream beds, without having a Bureaucratic obstacle to the above rights.

I would like to further state that at the present time we have a stream which has been dewatered for several miles because of three beaver dams which are diverting the water from the stream along a hillside and into a high water dry stream channel and sinking the diverted water in this stream bed. The main stream bed is dry and the fishery is gone and no stock water or irrigation water is left in this stream section. We were given permission to remove dams and beavers from I.D.F.G. and authority to do the same from U.S.F.S., but are at a stand still because of your telephone directives. We do not wish to start a practice of additional Bureaucratic hurdles which might jeopardize the rights mentioned above. Some legal experts are looking at the taking of private property rights by such a process.

We would like a copy of your directives if they are valid and any other comments you may have as soon as possible as we have some emergencies at hand.

Sincerely,

Donald W. Shenton

Donald Shenton
Watermaster of Water District #31

cc: I.D.W.R.
Rep. Golden Linford
Rep. Joan Wood
Sen. Rex Furness
Sen. Laird Noh
Sen. Stan Hawkins
Jim Hagenbarth
Harold Siddoway