



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

October 9, 2009

Troy Foster
Watermaster WD 13-A
2063 E 1600 S
Preston, ID 83263

RE: Outstanding items pertaining to Water District 13-A

Mr. Foster:

As you are aware the Idaho Department of Water Resources (Department) has, of late, been quite active in your Water District. As such, there are a number of items that I would like to share with you. Likewise, there are several outstanding items from previous years for which the Department does not know the current status. I would appreciate it if you could reply to this letter in written form (letter or email) with an update in status to the outstanding issues discussed below.

Throughout this irrigation season Dan Nelson and I worked in Basins 11 and 13 on a number of tasks, generally in support of assisting water users with water measurement, verifying water measurement improvements, and evaluating existing diversions in need of water measurement devices. Included in these tasks was the inventory of Sugar Creek, Worm Creek, and Maple Creek. I have attached two memos, one prepared by Dan Nelson and one prepared by myself, summarizing our efforts this year in Water Districts 11 and 13-A. These memos are for your use and record.

On October 16, 2008, the Department issued a water measurement order for select diversion from the Cub River in Water District 13-A. The Cub River Irrigation Company and the Preston-Whitney Irrigation Company were specifically ordered to install a measuring device of a type acceptable to the Department on the Middle Ditch diversion, prior to diverting water during the 2009 irrigation season. In addition, the Franklin Cub River Pumping Company was required to install a measuring device of a type acceptable to the Department on the Franklin Cub River Pumps diversion, prior to diverting water during the 2009 irrigation season. Furthermore, the Watermaster was ordered to shut off and refuse to deliver water to either the Middle Ditch or the Franklin Cub River Pumps if measuring devices were not installed or adequately maintained at any and all times, beginning in the 2009 irrigations season.

Please confirm that the Franklin Cub River Pumps Company installed water measurement devices for the 2009 irrigation season and describe the measurement devices installed. If measurement devices were not installed, please confirm whether water was delivered for the 2009 irrigation season. The Department is aware that an acoustic Doppler flow meter (ADFM) was installed on the Middle Ditch for the 2009 irrigation season. We are also aware that the accuracy of the ADFM was highly suspect at peak diversion flows. Prior to the start of delivery of water on the Middle Diversion for the 2010 irrigation season, please confirm that the ADFM system has been corrected or modified for greater precision in flow measurement.

Finally, the Department has expressed some concern over the last year regarding the distribution and delivery of water on Maple Creek by a person other than a duly appointed Watermaster or Deputy Watermaster, having taken an oath to faithfully perform the duties of the Watermaster's office, consistent with section §42-605, Idaho Code. Our records show that Conan Foster was appointed as a deputy for Water District 13-A but we had also expected an additional oath of office and appointment for someone on Maple Creek who we understand may also work for the Maple Creek Pioneer Irrigation Company. Please be aware that any person delivering water in a Water District who has not taken an oath of office is not covered by the state group surety bond as provided by sections §59-801 through §59-804. The consequences of delivering water without a formal appointment and the safeguard of the group state surety bond is that no liability protection is provided for potential losses due to incompetent or negligent water delivery, and the water district or the person delivering and regulating water on the stream is left open to the possibility of assuming the full liability associated with any potential losses or damages. This is an unnecessary risk for both the water district and the water deliverer. Therefore, it continues to be the Department's position that the person responsible for water delivery on Maple Creek must be either the Watermaster or a Deputy Watermaster of WD 13-A. I understand that Department staff discussed this matter with water users at the 2009 Water District 13-A annual meeting

Prior to your written reply I would be happy to discuss any of these matters with you in more detail. I can be reached by telephone at (208) 287-4914, or by electronic mail at mathew.weaver@idwr.idaho.gov.

Respectfully,



Mathew Weaver, PE
Staff Engineer

Enclosure(s)

Cc: Ernie Carlsen, IDWR Eastern Region