



**State of Idaho**

## **DEPARTMENT OF WATER RESOURCES**

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**BRAD LITTLE**  
Governor

**GARY SPACKMAN**  
Director

June 23, 2020

MERRITT UDY  
WATERMASTER, WD74Z  
PO BOX 145  
LEADORE ID 83464-0145

RE: Water Sources Subject to Administration in Water District 74Z

Mr. Udy:

This letter responds to recent questions received by the Idaho Department of Water Resources (IDWR) concerning administration and delivery of water within Water District 74Z (WD74Z). WD74Z includes the Lee Creek drainage and the Big Eightmile Creek drainage, and all tributary sources of water within those drainages. The primary question relates to administration of certain spring sources that are, according to the decreed water rights, tributary to Lee Creek. The holder of the spring rights in question has asserted exclusive use of these springs, suggesting that downstream senior water users on Lee Creek are not entitled to call on or benefit from the flow arising from the springs.

Idaho Code §42-604 requires the Director of IDWR or Department to form water districts to properly administer water from "each public stream and tributaries, or independent sources of water supply", once the rights and priorities have been adjudicated. IDWR and watermasters have a legal obligation to ensure water is delivered according to the respective priorities of the decreed water rights. Water rights must also be administered consistent with any specific conditions placed on the decreed water right and any general provisions associated with the applicable decree.

Water rights administered by WD74Z were included in two recent general water adjudications, the Lemhi Adjudication in the late 1980's and the Snake River Basin Adjudication (SRBA), finalized in 2015. The SRBA Basin 74 General Provisions provide that water rights from "Eightmile Creek (Big & Little) and tributaries" and from "Lee Creek and tributaries" be administered separately from all other water rights in Basin 74. The separate streams provision does not apply to individual springs or other streams which are tributary to Eightmile or Lee Creeks. Sources of water that are decreed as tributary to a separately administered stream, must be administered in priority with the waters of such stream.

IDWR has reviewed information and documents provided by the spring right holder that have been argued to grant exclusive and private use of the springs. IDWR's counsel has reviewed the documents, and IDWR has been advised that the documents settled questions of water right ownership which is reflected in the current water right record, but do not grant exclusive right to the waters of the springs in question. Further, the decreed water rights to the springs denote they are tributary to Lee Creek and therefore must be administered in priority with all other water rights in the Lee Creek drainage.

This letter instructs the watermaster of Water District 74Z, Big Eightmile and Lee Creeks, to deliver all included water rights tributary to Big Eightmile and Lee Creeks in priority with the waters of those streams, and in accordance with Idaho Code.

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Please contact me if there are any questions.



Cindy Yenter  
IDWR Water Distribution Section  
Watermaster, WD170

cc: Bruce McConnell, WD74Z Chairman  
Carl Ellsworth, WD74Z Advisory Committee  
Jordan Whittaker, WD74Z Advisory Committee  
Ralph McRea, WD74Z Advisory Committee  
Rob Whitney, IDWR Water Distribution Section Manager  
Garrick Baxter, Idaho Deputy Attorney General