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Governor Brad Little
9/13/2022

Director Gary Spackman

GUY PETERSON
MULDOON VIA PO BOX 66
CAREY, ID 83320

RESPONSE REQUIRED

RE: Controlling Works and Measurement Device Requirement, Water District 370

Dear Mr. Peterson,

On October 10, 2003, The Department of Water Resources (Department) issued an *Order Requiring Controlling Works and Measuring Devices on Muldoon Creek and Tributaries, Water District 370* (Order). This Order requires the installation of acceptable measuring devices and controlling works on diversions from Muldoon Creek and its tributaries in Water District 370 ("WD370").

The Department has been advised by the Watermaster of WD370 that the diversion listed below is not in compliance with the Order. On September 8, 2022, Department staff made a visual inspection of the diversion headgate and measurement device, alongside the watermaster. According to Department records you have 2 water rights diverted from this location.

Diversion Name: Guy Peterson Upper Diversion
Water Source: Muldoon Creek
Water Right Number (Priority Date): 37-1143 (05/01/1910) & 37-22107 (10/31/1966)
Beneficial Use: Irrigation from 4/15 to 10/31
Diversion Rate 2.8 cfs (37-1143) & 1.81 cfs (37-22107)

Section 42-701(1), Idaho Code states:

The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.

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Guy Peterson Upper Diversion Compliance Issue:

- The headgate at this diversion is not able to be locked and controlled by the watermaster. **Any person changing or tampering with the headgate will be prosecuted under provisions of Sections 18-4303, 18-4304, or 18-4305 Idaho Code.**
- The headgate does not close completely and is unable to stop all flow.
- The measurement device allows water to flow unmeasured beneath the weir blade.

Under Idaho Code § 42-701(3), you are hereby notified that within ten (10) days of receipt of this notice, you must initiate the following action(s) to avoid potential curtailment by the watermaster:

- 1. Contact IDWR or the watermaster and provide documentation that the lockable controlling works are repaired, and an acceptable measurement device is installed appropriately; or*
- 2. Present a written plan to IDWR or the watermaster showing how you will begin and diligently pursue to completion, installation of an acceptable measuring device required by the order.*

Failure to comply with the requirements of this notice is cause for the Department to initiate a formal enforcement action under the provisions of Idaho Code § 42-1701B. **The Department will instruct the watermaster to shut the headgate if suitable control and measurement are not installed by March 31, 2023.** Please contact Corey King of IDWR (208-293-9919) or contact the WD370 watermaster, Brandon Smith (208-680-7367) if you have questions concerning the requirements of this notice.

Respectfully,


Corey King
Agent, Distribution Section

Cc: Rob Whitney, IDWR Distribution Section Manager
Brandon Smith, Watermaster, Water District 370

Enclosures:

Order of Measuring Devices and Controlling Works on Muldoon Creek (2 pages)

Water Right Layout (2 pages)

IDWR Minimum Acceptable Standards and Requirements for Open (1 page)

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