

MAR 15 2023

WATER RESOURCES
WESTERN REGION

Date

Dear Water District 65-D Water Users and Landowners with irrigation ditches/canals right of ways through properties,

A number of questions have arisen recently regarding the respective rights and responsibilities of Water District 65-D, water users and landowners. This letter intends to summarize Idaho Law, on the subject, in an effort to answer these questions.

In accordance with applicable water rights, Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner has the duty to deliver water to its users using its system of canals and ditches. *Idaho Code § 42-1201*. The district's/company's responsibilities end at the head gates from its canals and ditches where water is delivered to the water user's laterals and ditches. *Idaho Code § 42-1202*. Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner has the right to clean, repair and maintain its canals and ditches and other delivery works in order to deliver water efficiently to its water users. *Idaho Code § 42-1204*. Water District 65-D's, Boulder Irrigation Company's, Roseberry Irrigation District's, or other ditch owner's, employees and agents, including the ditch rider and Watermaster, have the authority to enter properties at any time without notice to maintain facilities and to regulate and distribute water. *Idaho Code § 42-1204*. Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner can remove any encroachment to water delivery at the expense of the encroaching party and without permission that "unreasonably interferes with its use of the ditch or canal." *Idaho Code § 42-1209; Pioneer Irrigation District v. City of Caldwell, 153,288 P.3d 810(2012)*.

Under the policies and rules of Water District 65-D, Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner, water users are required to order the water they expect to need at least **48 hours** in advance and cannot take any that they have not ordered. *Idaho Code § 43-304*. Water users also must clean and maintain the ditches below the delivery head gate, take out, or point of diversion that serve their own properties to ensure good water flow. It is important to keep in mind that just because a ditch runs through property, that property is not necessarily entitled to Water District 65-D water. If there are any questions about whether Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner delivers water to a certain property, please contact Water District 65-D Secretary, Linda Duncan. Of course, if assessments are not timely paid to the County, Water District 65-D, by law, may discontinue water deliveries. *Idaho Code § 43-327*.

No property owner or user shall place any obstruction on the ditch/canal banks, including private roads, utilities, fences, gates, pipelines, structures, or other construction or placement of objects, without written permission of the owner (Boulder Irrigation Company, Roseberry Irrigation District, or other ditch owner). Obstructions of any kind placed on ditch/canal banks without written permission from ditch's/canal's owner, shall be removed at the expense of the person or entity causing or permitting such encroachments, upon the request of the ditch/canal owner. *Idaho Code § 42-1102*.

We hope this information is helpful and avoids any future misunderstandings about the respective legal rights and obligations applicable to Boulder Irrigation Company's, Roseberry Irrigation District's, or other ditch owner's in Water District 65-D facilities and its delivery water. If you have any further questions, please do not hesitate to contact us. Thank You.

Sincerely,

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