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APR 07 2006

DEPARTMENT OF
WATER RESOURCES

WATER DISTRICT #1 WATER REPORT - April 4, 2006

Snowpack levels are above average for the first time since the start of the 1999 irrigation season. Combined with the unexpectedly large reservoir carryover at the end of the 2005 season, there should be a reasonably good water supply for this year. It's not guaranteed the reservoirs will fill to 100%, but the probabilities are really high at this point.

THIS IS IMPORTANT! Canal managers are reminded to call Water District #1 (525-7172) at least 24-hours prior to turning in their canal, and before making any significant changes during the irrigation season. The 24-hour notice is needed to properly manage reservoir releases, control river flows, and to provide notification to the water district to start Hydromet transmitters and begin collecting daily readings for canals. **Don't be responsible for causing too much or too little water in the river because you didn't notify us of your canal changes in advance!** Canals below American Falls should continue to notify the Bureau of Reclamation concerning canal changes to coordinate releases from American Falls Reservoir.

There have been some changes to the Water District #1 personnel since last irrigation season. Ron Carlson has retired. Lyle Swank has been elected Watermaster of Water District #1. Lyle has also been hired by the Idaho Department of Water Resources as regional manager for the Eastern Regional Office. Wendy Murphy has recently submitted her resignation. She'll continue working part-time for Water District #1 up until her last day on June 30, 2006.

The IDWR has made historical water right accounting data and canal diversion data much more accessible to the general public through the Internet. You can now retrieve current and several years of historical data for diversions, reservoir, or streamgaging stations. The process may be a little difficult for those who may not be familiar with mapping software, however, this is the first step by IDWR to answer the call for making accounting data more available and accessible. This is IDWR's first version of the Internet accounting data retrieval program. Improvements to the process and additional information are expected in the future. To access the data currently available, follow these basic steps on your computer:

- Enter the Internet address <http://maps.idwr.idaho.gov/wraccounting/>
- After reading the disclaimer click "OK" to retrieve a map of Idaho showing points for all diversions, reservoir, and streamflow gaging stations.
 - Activate the "zoom tool" (magnifying glass with a + sign) in the upper left hand corner of the screen by placing your cursor on the tool and clicking with your left mouse key.
 - Then drag your cursor across the approximate area where your canal is located while holding your left mouse key down. The box created when dragging your cursor on the map will be the area that will be "zoomed in".

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- When the map refreshes after “zooming in”, you can further “zoom in” by repeating the previous step, “zoom out” by activating the “zoom out tool” (magnifying glass with a – sign) and clicking on the map, or you can move up, down, to the left, or to the right on the map after activating the “pan tool” (hand) and then holding your left mouse key down while moving the map up, down, left, or right.
- You can see the definition of the various types of colored points by clicking on the “Legend” box on the right-hand side of the screen.
- Once you’ve zeroed in on the area where your canal is located, activate the “identify tool” (the box with an “i” surrounded by a black circle) and then left click on a point on the map.
- After clicking on a point, a “Query/Selection” box will appear in the upper portion of the screen displaying the name of the station(s) you selected. Click on the SITEID to retrieve information for that station.
- You can then choose to retrieve historical discharge data or accounting information (daily discharge, natural flow, storage flow, water rights, etc.).
- If you choose historical data, a drop-down menu will appear in the upper left- hand portion of the screen. Click on the year for which you wish to retrieve data.

There currently isn’t any water right accounting data available yet for the 2006 season. Water District #1 is still reviewing, correcting, and entering all daily diversion, streamflow, and reservoir data collected during the non-irrigation season. In addition, we are waiting for the results of the upcoming SRBA Water Court hearing on April 18th to determine whether or not modifications to the accounting program will be necessary as a result of regulating water rights in Basin 21 (Henrys Fork and Falls River) based on the recommended claims contained in the Basin 21 Director’s Report. In the meantime, we are currently filling the 1939-Palisades and 1935-Island Park reservoir storage rights.

S N O W - P R E C I P I T A T I O N U P D A T E

Based on Mountain Data from NRCS SNOTEL Sites
As of TUESDAY: APRIL 4 , 2006

BASIN Data Site Name	ELEV. (Ft)	SNOW WATER EQUIVALENT			TOTAL PRECIPITATION		
		Current	Average	% Avg	Current	Average	% Avg
IDAHO							
HENRYS FORK, TETON BASINS							
BLACK BEAR	8170	49.7	40.0	124	-M	41.4	*
GRASSY LAKE	7265	39.0	36.3	107	-M	36.9	*
ISLAND PARK	6290	18.1	15.3	118	24.1	19.4	124
LEWIS LAKE DIVIDE	7850	41.9	36.0	116	39.5	37.6	105
MADISON PLATEAU	7750	28.3	25.6	111	33.0	27.4	120
PHILLIPS BENCH	8200	35.1	29.5	119	34.7	29.8	116
PINE CREEK PASS	6720	20.6	15.7	131	27.7	21.1	131
WHISKEY CREEK	6800	16.3	17.5	93	23.7	21.5	110
WHITE ELEPHANT	7710	38.2	29.3	130	40.1	31.0	129
Basin wide percent of average				117			119
SNAKE BASIN ABOVE PALISADES							
BASE CAMP	7030	20.6	17.8	116	25.4	22.0	115
BLIND BULL SUM	8900	29.2	28.4	103	21.8	22.8	96
COTTONWOOD CREEK	7600	30.1	24.1	125	31.7	28.2	112
EAST RIM DIVIDE	7930	11.4	13.5	84	11.8	12.4	95
GRANITE CREEK	6770	21.4	18.3	117	23.6	20.3	116
GRASSY LAKE	7265	39.0	36.3	107	-M	36.9	*
GROS VENTRE SUMMIT	8750	12.7	14.4	88	13.0	13.2	98
GUNSIGHT PASS	9820	12.3	-M	*	14.7	-M	*
LEWIS LAKE DIVIDE	7850	41.9	36.0	116	39.5	37.6	105
LOOMIS PARK	8240	20.0	17.4	115	20.0	17.8	112
PHILLIPS BENCH	8200	35.1	29.5	119	34.7	29.8	116
SALT RIVER SUMMIT	7600	16.9	14.6	116	19.6	19.3	102
SNAKE RIVER STATION	6920	21.4	18.8	114	26.1	22.8	114
SPRING CREEK DIVIDE	9000	31.8	27.2	117	-M	27.1	*
THUMB DIVIDE	7980	19.8	19.1	104	19.2	19.4	99
TOGWOTEE PASS	9580	25.1	25.5	98	26.0	25.3	103
TWO OCEAN PLATEAU	9240	35.6	28.9	123	29.0	28.4	102
WILLOW CREEK	8450	36.7	30.9	119	40.7	33.1	123
Basin wide percent of average				112			108
WILLOW, BLACKFOOT, PORTNEUF BASINS							
SEDGWICK PEAK	7850	-M	23.0	*	28.5	23.3	122
SHEEP MTN.	6570	18.2	13.8	132	21.5	16.7	129
SLUG CREEK DIVIDE	7225	19.6	17.8	110	25.1	21.0	120
SOMSEN RANCH	6800	15.3	13.0	118	19.5	16.8	116
WILDHORSE DIVIDE	6490	23.2	17.4	133	24.8	21.0	118
Basin wide percent of average				123			121

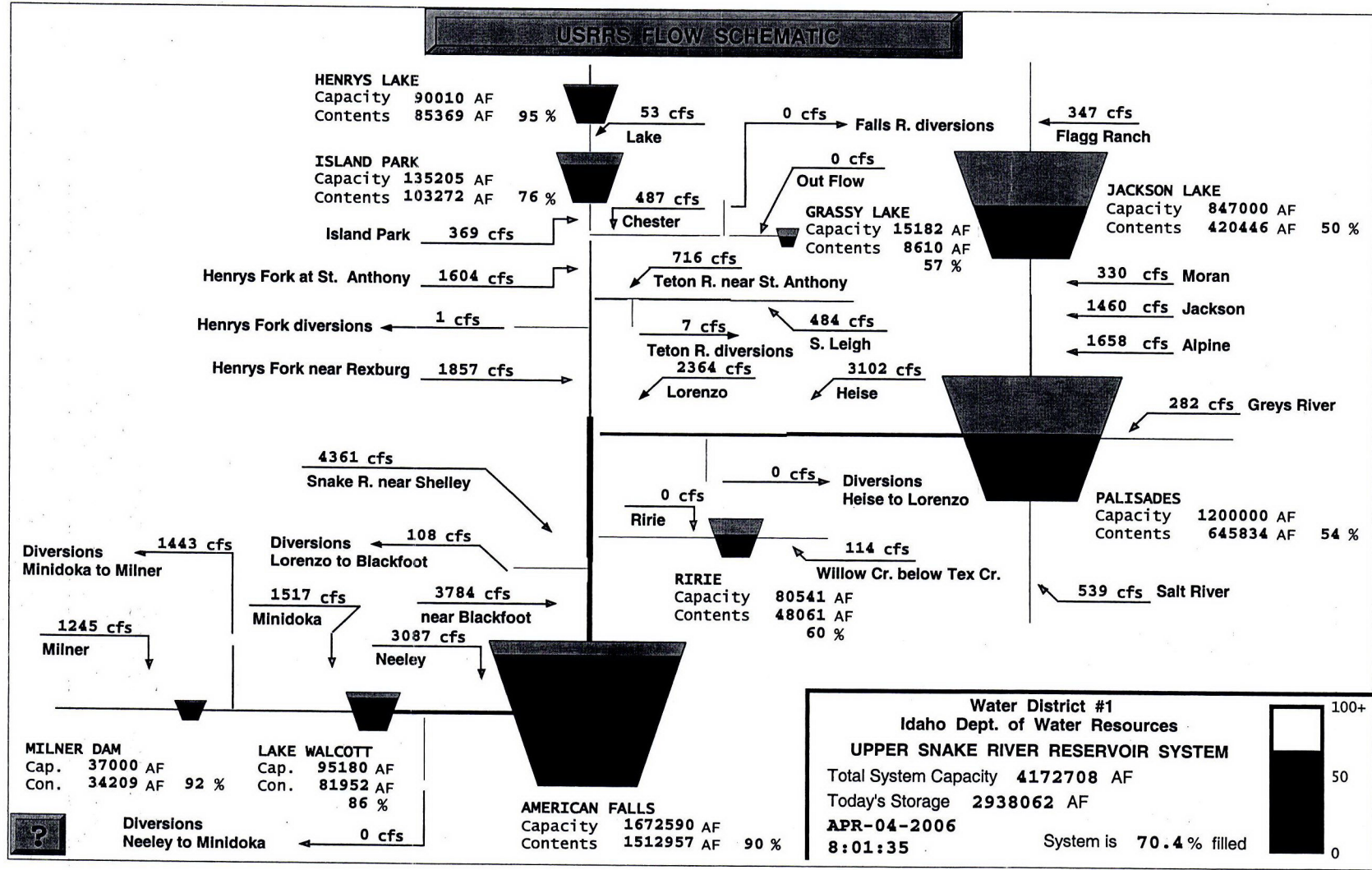
-M = Missing data

* = Data may not provide a valid measure of conditions.

Units: inches for the Current and Average Snow Water Equivalent and
Total Precipitation values

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State of Idaho Office of Attorney General Lawrence Wasden

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*****FOR IMMEDIATE RELEASE*****

Date: March 30, 2006
Media Contact: Bob Cooper
(208) 334-4112

Clayton Fullmer Sentenced for Grand Theft

(Boise) – A former deputy watermaster in Eastern Idaho has been sentenced for grand theft involving the unlawful sale of water owned by the State of Idaho, Attorney General Lawrence Wasden said.

Clayton B. Fullmer, 32, of Teton was sentenced to at least two years, and up to six years, in prison. Seventh District Judge Brent J. Moss suspended the prison sentence and ordered Fullmer to serve 10 days in the county jail, pay a fine of \$750.00, perform 200 hours of community service, serve three years on probation and pay \$1470.00 in restitution to the Idaho Department of Water Resources.

Fullmer worked for the Department of Water Resources as a deputy watermaster in the Driggs area. The Attorney General's investigation revealed that, in 2003, Fullmer told two Idaho ranchers, who held water rights on the Cache Canal near Driggs, that they were out of water. Fullmer, claiming to have access to extra water available for sale from a private party who did not want its name disclosed, accepted payment from the ranchers for the extra water. The Attorney General's investigation showed that no private party in fact existed.

Two years later, the unauthorized sales came to the attention of the Department of Water Resources, and the department notified the county prosecutor. The Special Prosecutions Unit of the Attorney General's Criminal Law Division investigated and prosecuted the case at the request of Teton County Prosecuting Attorney Barton Birch.

Fullmer plead guilty to grand theft, a felony, on November 29, 2005, and was sentenced March 28, 2006.

- End -



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Incident Report – April 7, 2005

Ronald D. Carlson
Eastern Regional Manager /
Watermaster Water District 1
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Idaho Falls, ID 83402
Phone: (208) 525-7171
Cell 521-7370
Email rcarlson@idwr.state.id.us
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BACKGROUND

Water rights established in Idaho are appurtenances to the land or other thing to which, through necessity, water is being applied. Water rights are real property rights. Surface water supplies may not be sufficient at all times to fill all of the entitlements that have been granted by the Department of Water Resources or the Courts. During these times of scarcity the state executive agency in charge of water distribution is the Idaho Department of Water Resources (“IDWR”). Distribution is accomplished through the provisions of Chapter 6 of Title 42, Idaho Code. This section of the Idaho statutes provides for the director of the IDWR to create water districts. Once a water district has been created then the water users of that district have the responsibility to elect a watermaster who, upon appointment by the IDWR director is responsible for the distribution of water rights to the lands or facilities to which they are appurtenant. When water supplies are insufficient to supply all of the water rights the watermaster is responsible for distributing the available water supplies in accordance with the order of the priority dates of the water rights, which generally approximates the order in which the water rights were developed. “As between appropriators, the first in time is first in right.” Idaho Code § 42-106.

The watermaster is authorized to employ assistants in addition to those who may be approved at the annual meeting of the water users of the district to aid the watermaster in the discharge of the watermaster’s duties, who shall take the same oath as the watermaster. Idaho Code § 42-609.¹ Snake River Water District 1 is the largest water

¹ See Attached Oath of Office for 2004

Incident Report

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district in the state. Because tributary areas like the Teton basin are remote deputy watermaster's must be responsible for the day-to-day distribution activities. The watermaster will determine what water rights can be filled on tributary streams and then advise his deputies who he relies upon to regulate the use of water by water right holders on those streams. The Watermaster of Water District 1 generally has held annual training sessions with all of his deputies in an effort to assure that they know their responsibilities and that they discharge those responsibilities in the manner the watermaster would if he were able to regulate all of the diversions himself.

In addition to the distribution of the water that arises from melting snow, precipitation and spring flow the watermaster also has the responsibility of distributing stored water. In some cases stored water must be delivered through exchange. These exchanges on tributary streams can be complicated and hard to accomplish without injury. Consequently no part time deputies in Water District 1 have been authorized to make any arrangements for the delivery of stored water without the direct approval of the Watermaster. Deputies on tributary streams have been authorized to run the appropriate tests to determine if a stream is still connected and supplying water to fill senior rights on the main river. If the test demonstrates that the use of water by the junior on the tributary is not affecting the water supply of a senior user on the main river, the call for delivery is held by the watermaster to be futile and the junior user is allowed to continue using water. The determination of futile call is made by the watermaster based upon the information collected by the deputy.

Because the watermaster is charged with the enforcement of specific water laws he was viewed as a law enforcement officer in the early history of the state. The watermaster and his deputies were given badges similar to those worn by other law enforcement officers. Some watermasters are known to have carried firearms as they regulated the use of water by priority. There are criminal statutes that make acts that are intended to interfere with the watermaster's "setting and shutting" diversions a misdemeanor. The state no longer issues badges to watermasters.

THE INCIDENT

Clayton Fulmer was first appointed to serve as the deputy watermaster in the Teton Basin in 2001. In addition to annual training sessions staff from the watermaster's office have spent time with Clay each year to assure that he fulfilled his duties and was able to collect the stream flow and diversion data that the watermaster needs. While Water District 1 has a formal Rental Pool that provides the mechanism through which additional storage supplies can be made available storage supplies from the Rental Pool has rarely been available for use in the Teton Basin.

In the fall of 2004 Ken Chambers² was in the IDWR Eastern Regional office on a matter unrelated to water distribution in the Teton Basin. During a conversation with regional staff he inquired about our records of a rental of stored water that he had made through Clay Fulmer during the summer of 2004. We told him we had no record and asked if the Fremont Madison Irrigation District (FMID) might be involved since Clay has no authority to initiate storage rentals. Ken Chambers was guarded in his statement but indicated that both he and Ken Dunn³ had been told they would be shut off if they did not rent some stored water from an unknown supplier who wanted to remain anonymous and would only take the rental payment in cash. Ken Chambers did not disclose how much he paid. Later I called Ken Dunn and in the recorded conversation he indicated that Clay had told him that during 2003 and 2004 he would be shut off if he did not give Clay a specific amount of cash. Ken Dunn indicated that during those two years to keep his water from being shut off he paid Clay Fulmer approximately \$2000 in cash. It is reasonable to assume that if Ken Chambers and Ken Dunn were being made to pay to keep their water flowing that there are others who also were buying water from Clay Fulmer.

² Ken Chambers 241 N 350 W Tetonia, ID. 83452 (208) 456-2878

³ Ken Dunn office 326 N 300 W Tetonia, ID 83452 (208) 456-2215

Water District 1

STATE OF IDAHO

STATE OF IDAHO)
County of Bonneville) ss
Teton)

OFFICIAL OATH

I do solemnly swear (or affirm) that I will support the Constitution of the United States, the Constitution and laws of the State of Idaho, specifically including the provisions of Section 42-605 and 42-607, Idaho Code and that I will faithfully discharge all the duties of the office of Special Deputy of all Teton County Surface Water
(Canal Company)
according to the best of my ability. So help me God.

Clayton Fullmer
Principal (Signature)

Clayton Fullmer.
Print Name

530W. 575N.
Address

Tetonia ID, 83452.
City, State, Zip

SUBSCRIBED AND SWORN to before me this 14th day of April, 2004.

Wendy J. Murphy
Notary Public

Residing at Idaho Falls

Commission Expires 6/23/06

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MAY 14 2007
DEPARTMENT OF
WATER RESOURCES

✓ Dave
Gary ✓
Tim Luke Th
Please file
in WD 01 file
May 10, 2007

Burgess Canal Company
Parks and Lewisville Canal Company
Rudy Canal Company
Clark & Edwards Canal Company

Idaho Dept. Of Water Resources
Water District No. 1
900 N. Skyline Drive
Idaho Falls, Id 83402

To: Lyle Swank - Water Master
Larry Kerbs - Chairman; Committee of Nine (9 copies of members)

We hereby Notify the Water District No.1 Watermaster (also O&M Budget Manager) and The Committee of Nine that the Burgess Canal and Irrigation Company, Inc., Parks & Lewisville Canal Company, Inc., Rudy Canal and Irrigation Company Inc., and the Clark & Edwards Canal Company, Inc. will not and legally cannot (vote of the stockholders) continue to pay the Upper Valley Legal portion of the annual O&M. As you are aware the Aberdeen-Springfield Canal does not pay these bills but their Committee of Nine member helps decide how to spend our money.

We believe the firm(s) which actually represent all of the Committee of Nine - (Rocholt, J. Simpson, and R. Ling; et. Al) are more than adequate and qualified. Any affairs now served by the Upper Valley legal should already be overseen by the real counsel of all the District No. 1. Many times we have up to seven lawyers at a session. This forces the lawyers and firms to duplicate many, if not most, of our legal affairs. We clearly believe there is no function for Upper Valley Legal not now chartered to the Regular District No. 1 law firm(s). Further there is no legal or accepted uniqueness for "Upper" and "Lower" Valley. If any purpose existed for the "Upper Valley Legal" at the time it was added to the program it has long since lost its purpose and direction.

Water District No. 1 bills the O&M by acre feet which also means lawyers of the district and the "Upper Valley Legal" is billed by acre feet. As a result our canals pay 2 1/2 times the average of all canals and seven times as much as some of the lower valley canals as related to acres and crops grown. This is simply unfair for all O&M, but how could anyone suggest that a lawyer's time and service would be seven times higher for one canal than another. If this billing system is not changed we will be forced to promote more sprinklers and line the canals. We will not be cheated into the future years. We now find that lining canals is cost effective in most cases at the current water values.

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We have brought this problem to your attention and made 3 separate formal pleas to the Committee of Nine. Our next action will be at a higher level if some satisfaction is not given.

We encourage the Water District No. 1 to look at advisory people chosen from the canals and Committee of Nine members assignments to review and "monitor" meetings to reduce legal costs. We also believe adding an engineer to your staff by reducing legal personnel will help the district manage "real" problems. To many lawyers with not enough needs has led to meddling in matters outside the Water District No.1 (surface water only) Charter.

Counsel suggests to us that hiring a lawyer or firm is a "selective" event based on confidence and results just like a doctor or engineer. It is not uncommon to terminate a retainer service or a specific legal representation. On this basis we request the Upper Valley Legal part of the District No. 1 O&M not be included in billings effective from March 9, 2007, when you were formally notified of our intent. If, as you say the April 2007 bill was actually for 2006 we will pay that invoice under protest.

Your action is requested to ensure the requested change is effective immediately for the current 2007 year, O&M.

Burgess Canal & Irrigating. Co., Inc.

By Lloyd Hicks
Lloyd Hicks

cc: 1) Scott Campbell
Moffat and Thomas; et al
Chartered

Parks & Lewisville Canal Co.

By John Ellsworth
John Ellsworth

2) **Dave Tuthill**; Director
Idaho Dept. Of Water Resources

Rudy Canal & Irrigating Co., Inc.

By Bruce K. Grover
Bruce K. Grover

Clark & Edwards Canal Co.

By Dale Mortimer
Dale Mortimer