FR WD01 2003

State of Idaho
Water District 1
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Idaho Falls, Idaho 83402-1718

RONALD CARLSON
WATERMASTER
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December 1, 2003

Mr. Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, ID 83720-9000

Dear Karl:

One of the provisions of the Memorandum of Understanding, MOU, between Water District 1 and the Department is that **The director of the Department and the chairman of the Committee of Nine will consult annually prior to the end of the water district's fiscal year concerning the continuation of this memorandum.** To my knowledge this has not been done. This is my second year as chairman of the Committee of Nine and I have some questions regarding the obligations of Water District 1 and the IDWR. The district treasurer and I have looked over the MOU and have some questions about the language and the responsibilities in it. We would like to look at the following issues.

1. **The IDWR agrees to provide office space as necessary.** There seems to be some doubt that this has been satisfactorily accomplished the past few years. The regional office has been borrowing space from the DEQ for the measurement districts, which are under contract. This only works because the Regional Manager has been able to borrow office space from the DEQ and INEEL Oversight. This year DEQ took back one of the offices that the regional office had been using. Before that, offices in Oversight's space had also been called back and people have had to move. This last year some of the water district personnel ended up playing "musical offices", which is not the best way to get maximum staff productivity. While this is not a crisis, we understand that Water District 120 will need some additional space as this district adds staff. In the past, the Water District has discussed purchasing or building an office building and rent space to IDWR. Perhaps that discussion is once again appropriate.

2. **(IDWR will) provide Department vehicles for use by full-time employees of the department.** While the language here appears

3. to be clear, it is different from the "understanding" that existed for many years. For example, Committee of Nine members have sometimes driven a state vehicle. Also, while there never was an understanding that the people the watermaster hires each summer to measure water and read gages would have access to department vehicles, the watermaster had been given discretion by Ken Dunn, while he was director, to allow the Committee of Nine and full-time Water District personnel to drive state vehicles. This year, Ryan Madsen was hired directly by Water District 1, because of the IDWR hiring freeze. The watermaster apparently assumed that he still had the authority to allow Ryan, who was a full-time Water District employee, to drive available IDWR vehicles to perform his duties and responsibilities. That apparently was not the case. One solution to avoid this problem in the future would be for the Water district to purchase its own vehicles. This of course would require some changes in the MOU.

4. **(IDWR will provide) Department equipment and facilities as are necessary to equitably distribute the waters to the users within Water District No. 1.** This language talks about the use of IDWR equipment. Over the years Water District 1 has acquired a lot of its own equipment, which is made available to the Department. While this sharing has not been a problem, it was not addressed in the MOU. There is also confusion related to this general language and the more specific language related to the use of vehicles. Vehicles certainly fit under the definition of equipment necessary to distribute water.

5. **Water District 1 agrees to pay the department sufficient funds in advance to cover the cost of: Providing watermaster services, including 2/3 of the personnel costs of the regional manager and provided further that all other costs incurred in conducting Water District No. 1 business will be paid in full. Indirect costs will be paid at the rate approved by the department of the Interior Inspector General and current at the time of the water district annual meeting.**

   The 2/3 paid for the regional manager to serve as watermaster originally came about in an effort to set the watermaster's salary 33% above that of a regional manager. This was done in 1979 but the department has allowed or caused, this differential to consistently deteriorate over the years. The continuity of the water district staff is something water users have been concerned about since 1919. During these drought years, we are especially concerned about losing the experience and expertise we currently have at Water District 1. We need this experience and expertise to assure our water will be delivered accurately and in a timely manner.

   The indirect rate at the time of the annual meeting in March, 2003 was 32.6%. It was raised immediately after the annual meeting to 35.6%. We estimate that this change represented a $9000 cost that was not included in the Water District 1 proposed budget. Since the overhead was raised 3% the previous year also,

perhaps we should simply add in 3% a year to cover the anticipated increase in the overhead. However, under that procedure we quickly reach a point where the overhead equals the personnel cost. Some place before this equality is reached, the overhead costs make separation of the water district office and dissolution of the MOU very attractive to Water District 1.

5. **The approved indirect rate shall be reduced in recognition of the Department's statutory responsibility to supervise water distribution by subtracting in the indirect calculation any personnel costs included for the Director and the Administrator of the Water Management Division.** I was not party to the 1993 revision of the MOU, but this provision is confusing at best. As far as the treasurer can tell, there have never been any credits against the overhead for the director and administrator. We believe this provision is simply a confusion factor and probably should be dropped from the MOU.

6. **Mileage and per diem cost will be based upon the rate provided by state law for state employees.** We do not understand this provision. While we assume that all state employees will be reimbursed for travel and per diem at the rate set by the state, this seems to imply that this should be a requirement for the watermaster to follow in reimbursing field people for mileage. He has in fact done that. However, in that context, the per diem language may have problems.

7. **The Department will credit the District for a portion of the District's expenditures to the U.S. Geological Survey for operation of certain stream gages.** Before Ron Carlson became watermaster, the District Engineer for the USGS served as the watermaster for the Snake River. For about 60 years, the department was the primary contractor with the USGS for stream-gaging services. All of the gages on the upper Snake were supported by the state under the cooperative stream-gaging program with the USGS. In the original agreement whereby the IDWR Regional Manager replaced the USGS District Engineer, additional gages were installed to accommodate the water district's water rights accounting processes. The water users of Water District 1 picked up the cost of these additional gages. Over the years, IDWR apparently addressed budget shortfalls through shifting stream-gaging to the water users of Water District 1. The Water District needs these gages. But the fact is, so do universities, many water consultants, hydrologists, agencies and fishermen rely upon the data irrigators are paying for. A good case could be made that the state has the responsibility to support this data collection effort. The original resolution to this issue was a small credit against the overhead IDWR charges Water District 1. Last year Water District 1 paid the USGS over $200,000 for stream-gaging. The district paid IDWR about $150,000 in overhead. We understand that state budgets are tight and we have no desire to make it more difficult for the department to do its job. The fact remains, however, that there is an inequity. Since there has been no performance by the department under this provision, this issue will be readdressed.

In reading the two MOU's, it seems the changes made in 1993 are the source of most of the confusion. Perhaps we should again dust off the 1979 MOU and make whatever changes we agree upon to that document rather that the later one.

In keeping with the provisions of the MOU requiring an annual review, this letter reflects our thoughts. We will be happy to meet with you at your convenience to discuss this matter further.

Respectfully yours,

Don Hale, Chairman
Committee of Nine

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State of Idaho
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DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 16, 2003

JERRY RIGBY
RIGBY THATCHER ANDRUS et al
PO BOX 250
REXBURG ID 83440

RE: WATER RIGHT NO. 22-0265 AND APPROVED TRANSFER NOS. 2034 AND 3002, JEPPESEN ORDER TO SHOW CAUSE

Dear Mr. Rigby:

The Department has reviewed your letter dated April 11, 2003 together with an amended SRBA claim in the name of Woodmansee-Johnson Canal Company, Mr. Jeppesen's statement that he has installed a lockable device on each pump and will install measuring device(s) on his point(s) of diversion before May 1, 2003, together with affidavits of several parties in support of the "accomplished transfer" of the second point of diversion for the Woodmansee-Johnson Canal Company.

The affidavits submitted to support SRBA Claim 22-0594 will be subject to review by SRBA staff as a part of the ongoing adjudication. By copy of this letter to Ron Carlson, I am requesting that his office inspect the measuring device installation and lockable controlling works for adequacy and monitor water diversions and uses from Moody Creek during the 2003 irrigation season.

If you have questions, please feel free to contact Ron Carlson or me.

Sincerely,

L. GLEN SAXTON, P.E.
Acting Administrator
Water Management Division

c: IDWR - Ron Carlson
IDWR - Tim Luke
Billie G. Dupree, Jr.

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Water District 1
900 N. Skyline Dr., Suite A
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March 27, 2003

Tim Luke
Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237

Dear Dave:

Please find enclosed the resolutions that were adopted by the Snake River water users on March 4, 2003. They have asked that copies of the resolutions be forwarded to you.

Very truly yours,

Wendy J. Murphy

WENDY J. MURPHY
Management Assistant

Enclosure