

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF LITTLE CANYON ) **PRELIMINARY ORDER REQUIRING**  
CREEK WATER DISTRICT 61D WATER ) **CONTROLLABLE DIVERSION**  
MASTER REGULATION AND ) **WORKS AND MEASURING DEVICES**  
DELIVERY OF WATER RIGHTS )  
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**FINDINGS OF FACT**

1. The water rights on Little Canyon Creek in Elmore County Idaho are regulated by the Little Canyon Creek Water District #61D. The Water District Watermaster is responsible for water delivery and regulation of the natural flow and storage water rights associated with the creek source.

2. Recent annual low snow packs and rainfall has forced the Watermaster to curtail junior priority date storage and natural flow water rights early in the season to prevent injury to senior priority rights.

3. During 2013, there were allegations and conflicts regarding the delivery and regulation of storage and natural flow creek rights among the waterusers. There were similar delivery problems in previous years.

4. Measurement devices and controllable-lockable diversion works are lacking or in disrepair on the creek. The Watermaster is forced to make water deliveries based on visual flow and storage estimations.

5. The Watermaster cannot effectively deliver/regulate the creek water rights in the absence of measurement devices and controllable-lockable diversion works.

**CONCLUSIONS**

1. IC§42-701 states in part:

*(1) The appropriator 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 delivered... ..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 most practical in such canal ditch, wellhead or pipeline for the purpose of assisting the watermaster.....(3) Any appropriator or user of the public water of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section upon receiving ten (10) days notice from the director within which to begin and diligently pursue to completion of the construction or installation of the required device or devices... ..the director may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user.*

2. The Idaho Department of Water Resources Director (Director) is authorized to supervise the distribution of water rights in a water district. Water rights are to be distributed base on priority date, ref. Idaho Code (IC) §42-602.

3. Failure to complete the work within the time set may warrant a notice of violation for each diversion point and/or measuring device point not in compliance with the requirements of the water district. Civil penalties should accrue starting from the time set for completion and may be levied up to \$150.00 per day for each day of the continuing violation, ref. IC§ 42-1701B.

4. The waterusers should be allowed ample time to complete installation of controllable diversion works and measurement devices.

### **ORDER**

The following is hereby **ORDERED**:

1. Controllable-lockable diversion works and measurement devices shall be installed on utilized points of diversion as described by water rights with Little Canyon Creek as source. The deadline for approved installations/repair is on or before **March 1, 2015**.

2. Controllable diversion works and measurement devices shall be subject to the approval by the Department of Water Resources and the Little Canyon Creek Water District #61D Watermaster. Measurement devices must meet the Department's "Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices Guide" A plan detailing the controllable diversion works and measurement device design and installation/repair will be submitted to the Watermaster for review on before **August 1, 2014**.

3. Identification and inspection of diversions by the Watermaster shall occur on or about **March 15, 2015**. A GPS location will be established to confirm each diversion and the associated water right(s).

4. Storage facilities shall be fitted with gauging that depicts the height of storage (feet) in relation to the volume (acre feet) of water being stored. The storage right holder shall provide the Watermaster a gauge height verses storage volume chart/graph for their storage facility.

5. A creek channel weir shall be installed upstream of the Trail Diversion Reservoir, and the downstream creek channel weir shall be repaired just downstream of the reservoir spillway to provide accurate delivery of creek natural flow water rights.

6. The Watermaster shall refuse/deny delivery of water to any water right holder not demonstrating an approved controllable-lockable diversion works and measuring device.

7. Failure to install an approved controllable diversion works and measurement devices by March 1, 2015 may warrant a "Notice of Violation" from the Department of Water Resources for each point of diversion not in compliance.

8. Authorized stockwater and domestic beneficial uses are exempt from measurement device requirements.

9. The Order applies only to diversions located on Little Canyon Creek. This Order is not applicable to points of diversion on ditches, lateral ditches, shared re-diversions, or field headgates.

10. The Watermaster will deliver/administer natural flow and storage rights by priority date pursuant to IC Title 42, Chapters 6 & 7 and authorized water right parameters.

Dated this 29<sup>th</sup> day of January 2014

  
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John Westra, Western Regional Manager