



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

June 5, 2013

Peter Grush  
7 Springs Ranch  
2025 S Hwy 81  
Malta, ID 83342

Dear Mr. Grush:

I understand you have recently had conversations with Corey Skinner of this office and Roger Musser, the Water District 43C (Cassia Creek) water master, relating to an approval condition on recently approved transfer No. 78296 in the name of 7 Springs Ranch. Condition # 6 on transfer No. 78296 approval states as follows:

*The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).*

I also understand that Mr. Musser has discussed this matter with Jeff Cooper of this office relating to the implementation of this particular condition.

Idaho Code 42-701, subsection 1, states as follows:

*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.*

It is my understanding that you and Mr. Musser have developed a measurement and regulation plan that will provide the watermaster suitable control of the diversion(s) and provides assurances to other users in the district that the water diversion and use can be regulated and measured. I understand the plan incorporates measurement of combined flows from the various sources at or near the lands irrigated away from the points of diversion thereby reducing the watermaster's travel time and access issues as well as reducing the number of measuring devices while still maintaining adequate regulation and control. As long as the Water District 43C (Cassia Creek) watermaster and/or advisory board approve of the developed measurement and regulation plan and its resulting implementation, then the Department considers that condition # 6 on the transfer No. 78296 approval is being complied with. However, it should be noted, and

emphasized, that this compliance is contingent on the approval of the Water District 43C (Cassia Creek) watermaster and/or advisory board and may be subject to change if the watermaster &/or advisory board &/or the Department finds in the future that the plan is not adequate for some reason. This may result in the requirement to install additional control works and measuring devices at alternate locations to satisfy Idaho Code 42-701, subsection 1.

Idaho Code 42-701, subsection 1, states as follows:

*Any appropriator or user of the public waters 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 of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources 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 until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.*

If you have any questions, feel free to contact me, Corey Skinner, or Jeff Cooper at this office.

Respectfully,



Allen Merritt, PE  
Southern Regional Manager

cc: Roger Musser – Water District 43C (Cassia Creek) Water Master  
Maxine Ward - Water District 43C (Cassia Creek) Secretary