



# State of Idaho

## DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

March 21, 1996

Nancy J. Kagel  
3879 East 200 North  
Rigby, ID 83442

RECEIVED

MAR 27 1996

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Department of Water Resources  
Eastern District Office

Dear Ms. Kagel:

I have reviewed your letter dated March 1, 1996 concerning clarification about the Department's October, 1995 order and whether the order specifically requires you to install a measuring device on your diversion. I have also discussed your inquiry with Department administrative staff. I apologize for this late response.

At the time the order was issued, I believe the Department's intent was to require measurement of all diversions on Hawley Creek and tributaries, including your diversion. The Department generally expects that orders like the one of October, 1995 are applied equally to all of the users who receive them. In the past, the Department has not always enforced measurement requirements for those diversions which have the most junior water rights on the stream. We acknowledge that your rights are among the lowest junior priority rights on the stream, but they are not the most junior rights. Our records indicate that there are several other rights which are diverted downstream and have priority dates that are junior to your rights. As a result, it may not be prudent for the Department to provide you a permanent exemption to the measuring device requirement under the October, 1995 order.

Since we have been late in responding to your inquiry, and because it may be late in the year to start working with the Forest Service and/or other agencies regarding approvals or permits for constructing a measuring device, the Department will waive the measuring device requirement for your diversion during the 1996 irrigation season. We will attempt to monitor some of the water measurement and delivery on Hawley Creek through the local watermaster in 1996. We will then re-evaluate the need for a measuring device on your ditch at the conclusion of the 1996 irrigation season and either modify the order and waive the measurement requirement for your diversion, recommend another one year waiver and evaluation period, or require that a measuring device be installed prior to the 1997 irrigation season.

If the above recommendation is not satisfactory to you, please contact me at your earliest convenience. You may contact me directly at 327-7864 if you have questions or comments regarding this mater.

In a related matter, I want to take this opportunity to formally state that the headgate which you installed on your ditch last year is satisfactory to the Department.

Sincerely,



Tim Luke

cc: Harold Jones, IDWR Eastern Region  
Bob Foster, IDWR Salmon Field Office  
Dan Smith, Watermaster, District 74-W