

WD 74- W
2000



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 28, 2000

Dan Smith, Watermaster
Water District 74-W
PO Box 22
Leadore, ID 83464

faxed 7/28/00

Re: Enforcement of Measuring Device Order

Dear Dan,

It is apparent based on discussions with you, Eva Selleck and Steve Clark this week that some users on Texas and Big Timber Creeks have not complied with the Department's order requiring measuring devices and headgates. To ensure further compliance, the department directs you to immediately take the following action:

- 1) Diversions with no measuring devices.
 - Any diversion without a measuring device must be regulated immediately. Please contact any user on the main stem of Texas and Big Timber Creeks who has not installed a measuring device and advise them that the diversion will be shut off. Any diversion with a measuring device that is either washed out or incapable of providing any reasonable measurement estimate shall be considered a diversion with no measuring device. Allow approximately one-day before shutting the diversion off. Water may be re-delivered to these diversions upon installation of an adequate measuring device.
 - Any excess water gained to the creek as a result of shutting off diversions with no measuring devices should be re-distributed to users with junior priority rights who have installed measuring devices.
- 2) Diversions with measuring devices that require some maintenance.
 - Please contact the owner of any main stem Texas or Big Timber Creek diversion with a measuring device that requires maintenance and instruct them to repair the devices in ten days. If maintenance is not accomplished within the ten-day period, cut back the diversions as necessary in order to deliver as many water rights as possible to diversions with adequate measuring devices.
 - Users who may have questions regarding any necessary maintenance should visit with you to receive clarification about the type of maintenance needed. Users may also call Bob Foster, Skip Jones or myself if the required maintenance is the same as what was documented by Bob and Skip when they inventoried the diversions with you last fall.

3) Texas and Big Timber Tributaries.

- Tributary diversions do not need to be regulated immediately for failure to install measuring devices since the Department's order did not specifically address tributary diversions. However, tributary diversions must still be regulated in accordance with priority rights. In other words, you should cut back or shut off tributary diversions to deliver senior priority rights downstream. The exception to this is a futile call scenario. If in any case the priority regulation of a tributary diversion does not result in water reaching or benefiting any downstream diversions, then the junior priority tributary diversion may be delivered again.
- The Department will likely amend the existing order to require installation of measuring devices for tributary diversions.

4) Headgates.

- No additional regulation is required at this time for failure to comply with the headgate requirement of the order. IDWR will re-evaluate with you the need for headgates and may amend the order to provide additional time or other action as may be necessary.

Any user who tampers with your settings of control works or headgates and diverts water without a measuring device shall be immediately reported to the Department and subject to a Notice of Violation and Cease and Desist Order. Such orders will include civil penalties for failure to comply with the Department's measuring device order.

Please contact me or Bob Foster if you have further questions concerning this guidance.

Sincerely,



Tim Luke
Water Allocations

Cc: Bob Foster, IDWR Salmon
Harold Jones, IDWR Eastern Region

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revised 7/2000
for [unclear]

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 28, 2000

Texas and Big Timber Creek Water Users

Re: Texas and Big Timber Creek Diversions – Enforcement of Order Requiring Measuring Devices

Dear Water User,

The Department has been advised of some diversions on Texas and Big Timber Creeks that are not in compliance with measuring device requirements established by the Department's order dated November 10, 1999. This order required measuring devices to be installed on all diversions from Texas and Big Timber Creeks by July 1, 2000.

The purpose of this letter is to provide notice to all users with diversions on the two main creeks that measuring devices must be installed and satisfactorily maintained. Attached to this letter is a copy of a letter from the Department to the watermaster, Dan Smith, providing some direction about regulation of diversions where measuring devices are either not installed or are inadequate. The Department has directed the watermaster to regulate diversions immediately. The direction at this time is limited to measuring device concerns and does not include regulation of diversions for failure to install headgates.

Please direct questions concerning this matter to the watermaster or Department staff including Bob Foster, IDWR Salmon Office, Harold Jones, IDWR Eastern Region or Tim Luke, IDWR State Office.

Sincerely,

Tim Luke
Water Allocations

Cc: Dan Smith, Watermaster
Bob Foster, Salmon Field Office
Harold Jones, Eastern Region

CERTIFICATE OF SERVICE

I do hereby certify that on this 28th day of July, 2000, the attached correspondence was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

James Ellsworth C/O Carol Ellsworth PO Box 60 Leadore, Id 83464	<u>cert. Rept.</u> 7099 3220 0006 2687 9642	Charles Isom C/O Karl Tyler PO Box 8778 Missoula, Mt 59802	<u>cert. Rept</u> 7099 3220 0006 2687 9703
James Whittaker PO Box 240 Leadore, Id 83464	7099 3220 0006 2687 9659	Lemhi Ranches PO Box 927 Salmon, Id 83467	" 9710
M. E. Slavin Box 331 Salmon, Id 83467	" 9666	Kurt Bird HC 68 Box 40 Leadore, Id 83464	" 9727
Moore Creek Ranch C/O Mike Overacker 1510 Hwy 93 N Salmon, Id 83467	" 9673	Richard Foster PO Box 55 Leadore, Id 83464	" 9734
Kermit Purcell Box 5 Leadore, Id 83464	" 9680	Allan Purcell PO Box 15 Leadore, Id 83464	" 9741
Lloyd Clark C/O Steve Clark PO Box 8 Leadore, Id 83464	9697	Karl Tyler PO Box 878 Missoula, Mt 59802	" 9758
		Ruth Smith C/O Dan Smith PO Box 22 Leadore, Id 83464	" 9765

Copies of the correspondence and attachments were also mailed to:

Dan Smith, Watermaster
Water District 74-W
PO Box 22
Leadore, Id 83464

Bob Foster
IDWR Salmon Field Office

Harold Jones
IDWR Eastern Region Office

Dayna Ball
Dayna M. Ball, Office Specialist II
Water Distribution Section

CERTIFICATE OF SERVICE

I do hereby certify that on this 31st day of July, 2000, the attached correspondence was served upon the following individuals by placing a copy of the same in the United States Mail, postage prepaid, certified with a return receipt and properly addressed as follows:

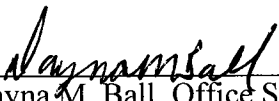
	<u>Cert. Receipt #</u>		
James Ellsworth C/O Carol Ellsworth PO Box 60 Leadore, Id 83464	7099 3220 0006 2687 9642	Charles Isom C/O Karl Tyler PO Box 8778 Missoula, Mt 59802	" 9703
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IDWR Salmon Field Office

Harold Jones
IDWR Eastern Region Office



Dayna M. Ball, Office Specialist II
Water Distribution Section

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James Ellsworth
C/O Carol Ellsworth
PO Box 60
Leadore, Id 83464

Lemhi Ranches
PO Box 927
Salmon, Id 83467

James Whittaker
PO Box 240
Leadore, Id 83464

Kurt Bird
HC 68 Box 40
Leadore, Id 83464

M. E. Slavin
Box 331
Salmon, Id 83467

Richard Foster
PO Box 55
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Moore Creek Ranch
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1510 Hwy 93 N
Salmon, Id 83467

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Karl Tyler
PO Box 878
Missoula, Mt 59802

Lloyd Clark
C/O Steve Clark
PO Box 8
Leadore, Id 83464

Ruth Smith
C/O Dan Smith
PO Box 22
Leadore, Id 83464

Charles Isom
C/O Karl Tyler
PO Box 8778
Missoula, Mt 59802

Eva Sellek
1189 S Eagle Rd
Kuna, Id 83634

Dan Smith, Watermaster
Water District 74-W
PO Box 22
Leadore, Id 83464

Bob Foster
IDWR Salmon Field Office

Harold Jones
IDWR Eastern Region Office

Dayna M. Ball

Dayna M. Ball, Office Specialist II
Water Distribution Section