



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**

February 10, 2000

Eva Selleck
1189 S. Eagle Rd.
Kuna, Id 83634

Re: Texas and Big Timber Creeks

Dear Ms. Selleck,

Pursuant to our recent phone conversation, please find enclosed two separate documents that list or describe the diversions that IDWR staff visited last autumn with District 74-W watermaster Dan Smith.

One document includes copies of photos taken at diversions on Texas Creek. Each photo has a few simple notes identifying the name of the diversion and some description of headgate/measuring device conditions and/or installation/maintenance needs. Photos of the diversions were scanned into a computer and copied.

The second document is a copy of a photo log that lists the diversions on the main stem of Big Timber Creek that were visited by IDWR and Mr. Smith. This document briefly describes headgate and measuring device conditions or needs at each diversion. Photos were taken of these diversions but have not yet been scanned to a computer. It is my understanding that copies of the Big Timber photo log and Texas Creek photos were attached to the cover letter that went out with the November 10, 1999 Preliminary Order.

It is my further understanding based on discussion with Bob Foster and Harold Jones that the photos and photo log represent all the diversions that were visited on Texas and Big Timber Creeks. Tributary diversions were not inspected. The order also does not appear to include tributary diversions. I believe the tributaries were omitted primarily because the department believed that you and/or your family expressed the greatest concerns about the diversions on the main creeks. I do not believe that we felt the same sense of urgency regarding tributary diversions. Perhaps we misunderstood your concerns. Additionally, we did not have adequate time last year to review or inspect tributary diversions.

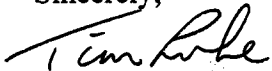
I encourage you to review the attached documents and advise us of any diversions that may have been overlooked on the main stem of the two creeks. As I stated to you during our phone conference, I believe that the order applies to all diversions on the main reaches of the two creeks even if we failed to list a particular diversion on our attachments. However, if you advise us that we did not include a photo or list the

diversion then it may be appropriate for IDWR to discuss the oversight with the watermaster and consider whether any additional contact should be given.

Bob Foster has agreed to contact the watermaster to discuss the tributary diversions. I have not yet received any report from Mr. Foster regarding his contact with the watermaster. I do plan to discuss the tributary matter further with Bob, Harold and Norm Young and consider what action, if any, to take this year.

Please contact me directly at (208) 327-7864 if you wish to discuss this matter further.

Sincerely,



Tim Luke
Water Distribution

Cc: Bob Foster, IDWR
Harold Jones, IDWR
Dan Smith, Watermaster, Water District 74-W



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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 31, 2000

Eva Selleck
1189 S. Eagle Rd.
Kuna, Id 83634

Re: Your Correspondence Dated January 23, 2000

Ms. Selleck

In response to your January 23rd letter to Norm Young regarding the installation of measuring devices on Big Timber Creek and Texas Creek, I would like to clarify the issuance of the November 10, 1999 Preliminary Order.

The diversions on Big Timber Creek and Texas Creek were inventoried because there was concern expressed by you and/or your family regarding the accurate delivery of the water rights on these streams.

The diversions on the above mentioned creeks were inventoried and assessed by IDWR personnel and the Watermaster of Water District 74-W. IDWR staff spent some of their weekend time doing this work in order to accommodate the watermaster's schedule. The inventory process started at the uppermost diversion on the stream(s) and ended with the lowermost. Any diversions that required attention, (i.e. headgates, measuring devices), were noted and subsequently the wateruser's were notified in the above mentioned Preliminary Order. IDWR relied heavily on the Watermaster of District 74-W for the location of these diversions as well as the names of the current wateruser's.

IDWR staff believed that they had included all of the significant diversions that required attention with respect to distribution and regulation concerns. It is quite possible that several small diversions at higher elevations or more remote tributaries were overlooked. Please keep in mind that diversions at such locations are often difficult to access and hard to maintain. Headgates and measuring devices in such locations often wash out due to high spring runoff. Moreover, some high elevation diversions with late priority rights are only diverted, or are designed to divert water, during high spring runoff. They often are not used to divert water, due to physical limitations, when lower elevation diversions are being regulated. These circumstances may or may not apply to the diversions that you believe we missed.

It would be most helpful to us if you could specifically identify any diversions that you feel were missed on Big Timber and Texas Creeks or their tributaries. IDWR personnel will then consult with the watermaster and if deemed necessary, look at any diversion

that may have been overlooked or may have an affect on the delivery of Big Timber or Texas Creek water rights. If appropriate, IDWR may send orders to any user that has a diversion that requires measuring devices and/or controlling works that was overlooked on the prior order.

Finally, I feel it is appropriate to note that the November 17, 1999 cover letter accompanying the Preliminary Order provided instructions to users regarding the filing of petitions for reconsideration or exceptions and briefs. As per those instructions and in accordance with Idaho law, a person receiving an order has 21 days to file a petition for reconsideration or exception to the order. If no petitions, exceptions or briefs are filed within the 21 days, the order becomes final. The department did not receive any such petitions or exceptions during the 21-day period that followed the November 17, 1999 Preliminary Order.

Our records indicate that the Preliminary Order was sent to Steve Lloyd. It is my understanding that Mr. Lloyd is the farm operator or manager associated with the rights for which you have some interest. It is my further understanding that Mr. Lloyd also has some ownership interest in the same water rights. Please advise us if our records are incorrect or if you should be added as a contact person involving your rights of interest within Water District 74-W. I further encourage you to contact the Water District 74-W watermaster or secretary about the need to add your name and address to district records to ensure that you receive all future correspondence from either the district or the department.

If you have questions or further information regarding this matter feel free to contact me at (208) 327-7864 or Bob Foster at (208) 756-6644.

Sincerely,



Tim Luke
Water Distribution, Section Manager

Cc: Norm Young, IDWR
Bob Foster, IDWR
Harold Jones, IDWR
Dan Smith, Watermaster, Water District 74-W

RECEIVED

JAN 26 2000

Department of Water Resources

January 23, 2000

Eva Selleck
1189 s. Eagle Rd.
Kuna, ID 83634

Norm Young
IDWR
1301 N. Orchard
Boise, ID 83706

Dear Mr. Young:

In the latter part of November 1999 we received a Preliminary Order for the installation of measuring devices on Big Timber Creek and Texas Creeks. It states it is just part of water Dist. 74-W. If measuring devices and controlling works are not required on all of 74-W there will not be a great effect on the accuracy of the water distribution. If the water is not measured on the tributaries before they reach the larger creeks it doesn't do much good to measure the creeks because the water never gets to the larger bodies of water that needs to be there in order to fill the decrees. While the IDWR is going to all of the trouble of making sure part of the weirs are in place they need to make sure all of the weirs on the whole system are in place so it works as a whole. They need to start at the top and work all the way down the water supply. If they only work on the bottom of the streams it will not solve the problem it will only aggravate the situation. There must be weirs in all of the ditches in 74-W not just part of the ditches. You can not solve the problem by doing things half way that would only cure half the problem.

Sincerely,

Eva Selleck

Eva Selleck

922-5074