



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

August 25, 1994

Mr. Dave Birchard  
Watermaster, District No. 67-A  
Box 52  
Indian Valley, ID. 83632

RE: Lateral Waterusers Association and Related Topics

Dear Dave:

This letter serves to reply to your request of August 17, 1994 regarding a variety of concerns for the Wilkerson-Mickey Lateral Waterusers Association and other items. Also, Mr. Isaac Ward telephoned me on June 24, 1994 with concerns about a user on the Wilkerson-Mickey Ditch. I am sending him a copy of this letter in reply to his similar concerns.

Enclosed is information that I hope will answer your questions. Please bear in mind that I am not offering legal advice or representing that my conclusions are necessarily the correct interpretation of Idaho statutes. Instead, I offer my best estimate of the content of the statutes for your consideration. You and/or the irrigation district might wish to solicit legal advice from a qualified party.

Lateral Association Articles and By-Laws

Two samples are included that outline articles of association and by-laws for lateral associations recently organized in southwest Idaho. It is suggested that the lateral manager keep written records of water deliveries and other field work for reference in case of questions or problems. Also, it is a good idea to include some language that specifically allows the lateral manager to regulate a user's headgate if necessary to maintain priority deliveries.

Irrigation District Ditch Manager Responsibilities

You asked if the irrigation district could control use of irrigation district water (reservoir water, in this case) past the head of a delivery ditch. It appears from I.C. Sec. 42-903, 42-909 and 42-910 that an irrigation district can appoint a lateral manager to perform the same duties described by Idaho law for a lateral waterusers association manager.

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Caution must be exercised in this operation. The irrigation district ditch manager can only control the delivery to individual headgates along a common ditch for irrigation district water but not for natural flow deliveries. For the Little Weiser River scenario, this means that irrigation district control can be used for the distribution of storage water in a ditch but not for the distribution of natural flow in the same ditch.

The only exception to the preceding paragraph is a case where the ditch in question receives irrigation district (storage) water and other water from the Watermaster (natural flow) and where the users are organized in a lateral waterusers association. The Wilkerson-Mickey Ditch is the only one established in this manner as far as I am aware.

Thomason Water Rights Via Wilkerson-Mickey Ditch

With respect to the Thomason property located in SENE, Sec. 10, T14N, R2W, several deliverable water rights are found that divert water through the Wilkerson-Mickey Ditch. The rights are Nos. 67-00476 (1881), 67-00485 (1886) and 67-07494 (1980). You asked about the latter right in particular. That right is clearly diverted through the ditch in question as shown by the enclosed copy of the 1993 field examination.

License No. 67-07494 also describes redirection points where water is withdrawn from the Wilkerson-Mickey Ditch. Refer to the field examination for details. While the right allows water to be withdrawn from the ditch, the date of priority and license condition No. 8 are key controlling factors for use of the right. The license cannot be used unless water is available to satisfy a 1980 natural flow right from the Little Weiser River.

Appropriate articles of association and by-laws for the lateral waterusers association for the ditch should provide the means to regulate use of right No. 67-07494 and all other water rights using the ditch.

I hope this information helps you in your efforts to regulate use of natural flow and/or storage water obtained from the river. Please contact this office if you need additional help.

Sincerely,



Steve Lester  
Water Rights Supervisor

Enclosure

c: Isaac Ward, Little Weiser River Irrig. Dist.  
Josephine Thomason