



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

November 5, 1996

RANDY LANDRETH
2670 GRAVELLE
CAMBRIDGE ID 83610

Issac Wind
Hc 68 Box 2180
Cambridge
83610
Little Union Ditch
Irrigation

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: Pending Notice of Illegal Diversion

Dear Mr. Landreth:

During my September 18, 1996 visit to your property, we discussed water right filing requirements for the ponds you have constructed. I promised to follow up with additional information. This letter will explain the filing criteria and the actions you must take to avoid violations of water right statutes.

You indicated that you had spoken to IDWR staff on a few occasions, and were left with the impression that the ponds as you have constructed them are exempt from any permitting requirements. Impoundments of limited volume may be used as a part of the diversion system of an existing natural flow right, for the purpose of regulating the incoming irrigation flows. These impoundments must fill in 24 hours or less, and may not be kept full during the non-irrigation season. The cumulative volume of storage which you have developed requires a permitted water right, and also the submittal of applications to construct small dams. Storage of these flows without a valid water right is an illegal diversion.

Possibly the information you received from IDWR was not clear, or the staff member did not understand the scope of your project. For this reason, you are not presently held in violation. Beginning with the 1997 irrigation season, however, if you have taken no action towards authorizing this storage, you will receive a formal Notice of Violation of illegal diversion and storage of water, and will be required to cease diversions, including possible breach of your dams. Monetary penalties for illegal diversions may be assessed under Idaho law.

An Application for Permit must be submitted to authorize irrigation storage in the existing ponds. From your description of the system, five of the ponds are interconnected with your existing system from the Schwenkfelder Ditch, and therefore may be represented on a single application filing. A sixth pond in NENW Section 21 may catch only spring runoff flows and must be shown on a separate filing. Since you are already authorized under permit 67-07478 and your decreed rights to divert natural flows for irrigation, both of the new applications need show only irrigation storage.

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I spoke with Richard Krettin regarding the deliverability of new rights through the Schwenkfelder Ditch, and the probability of protest of new filings. I believe that local protest of the filings is very likely, at least initially. Mr. Krettin feels that adequate conditions of use could be imposed to allow them to be permitted and made deliverable. Like your early season right no. 67-07478, any new rights will not be allowed to divert after about June 15. This should give you opportunity to fill the ponds, then pump from them for the remainder of the season. You will be limited to one complete fill per year under storage rights.

For your convenience, I have drafted and enclosed two applications for permit. Please review the applications for correctness, modify if necessary, and add your signature to page 2. A filing fee is required for each application. Also enclosed are applications for construction of small dams. Your prompt submittal of these applications will help us to process the filings before the next irrigation season, especially if protests must first be resolved.

Please feel free to contact me at 208-334-2190 if you have any questions. You may also contact John Westra at the above number for questions regarding dam construction. Return all applications and fees to my attention at this office.

Sincerely,

Cindy Hodges

Cindy Hodges
Sr. Water Resource Agent

Enclosures

cc: Richard Krettin, Water District 67A Watermaster
Isaac Ward, Little Weiser Irrigation District