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July 15, 2002

Steve Lester  
Water Rights Supervisor  
IDWR Western Region  
2735 Airport Way Boise, ID 83705-5082

Faxed to 334-2348

Re: Lockable and controllable diversion on Porter Creek

Dear Mr. Lester:

As I explained briefly in our phone conversation on July 5, 2002, my wife and I accomplished the removal of the former Dovel/Wallace (now Dovel/Heffner headgate) diversion from the former joint diversion box with Double Diamond/Don Rumsey (now Gene Hess) prior to the April 1, 2001 agreement deadline established by IDWR.

Although we completely sealed the (joint) inlet culvert pipe, our filling the canal gate hole with cement and aggregate required several hours of continuous bailing to allow the cement to set up. Porter Creek water continues to leak through the makeshift elbow into the former DD pipeline, with some of it running back through the DD headgate into the box when the valve is in the fully closed position *as always occurred*.

As I mentioned to you on the phone, I discussed this with Randy Heffner who chose to have Steve Dobson dig an extended ditch and install the new Dovel/Heffner inlet pipeline from a P.O.D. and headgate several hundred feet upstream. The new diversion would include a sump to facilitate sediment removal and was intended to be completed prior to the 2002 irrigation season.

I had never seen the above ground inlet pipeline you described to me over the phone and subsequently learned it was installed by J.C. Fry as a temporary inlet until Mr. Heffner completes the permanent installation described above. Because Mr. Fry has leased three ranches with decreed Porter Creek priorities #2, #4, #6, #7, and other more junior priorities, and has carefully regulated his water use to allow the Double Diamond #1 priority its maximum diversion when it can be used beneficially, I did not anticipate the need for a watermaster under the circumstances.

However you are certainly correct that a lockable headgate must be installed before a watermaster may legally deliver water, although that was often not the case in this Water District under your administration.

Mr. Heffner called me on Tuesday morning, July 9, 2002, in response to your letter he and I received on Monday afternoon, and suggested he install a lockable headgate at the outlet pipe on our joint diversion box. I told him I had already offered on the phone to purchase and install an expensive in-line geared lockable butterfly valve in our outlet pipe if he failed to complete the headgate timely, but advised him you insisted on a headgate before the water reached the box.

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Your July 5, 2002 letter also states, **"The diversion must include an adjustable and lockable headgate or valve located on the above ground portion of the pipeline close to the creek. I recommend you install the required item on the pipeline between the creek and your cement diversion box to provide convenient access and control for the watermaster."**

Although I do not understand the double standard in headgates you apply to the #6 and #7 rights compared to other junior and senior diversions on Porter Creek, the meaning of your next demand was abundantly clear. **"Therefore, you shall complete installation of a lockable and controllable device in a manner acceptable to the Watermaster and the Idaho Department of Water Resources no later than July 12, 2002."**

It was not possible for Mr. Heffner to order, have shipped in and install the appropriate gate with pipe adapters in the four days your demand notice allowed. In the interest of allowing Mr. Fry to utilize Porter Creek water this coming week, *if he chooses to do so* while Double Diamond is drying hay for harvest and not using any water, I volunteered to provide the installation you mandated.

I refaced the gate surfaces on a 10" Waterman canal gate valve, obtained the necessary adapters, and had them professionally welded to provide an air tight, water tight seal between the creek and the pipe outlet at the box. Then my wife and I installed the gate at the temporary P.O.D. on your Friday, July 12, 2002 deadline and called and left a message on Watermaster Hank Berntsen's answering machine at about 6 P.M. that day.

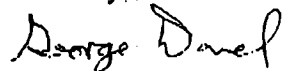
We have checked the installation by opening it briefly and then closing it several times over the past two days and it always seals completely. Because water is instantly trapped in about 100 feet of unvented 8" and 10" pipeline when the valve is fully closed, it takes a number of minutes for air to work its way up and fully displace all of the water thereby allowing it to run out, as it always did in the 20 feet of line between the two boxes.

However the water always stops running after a period of time and seals completely because I adjusted the valve taper to its maximum. I trust the installation meets with your and Mr. Berntsen's approval.

I am faxing a copy of this letter to you before office hours to assure that you have it on the deadline for Mr. Berntsen's inspection. Please re-explain the slow displacement of water with air in a sealed pipe to him and please forward a copy of this communication to him as I don't have his address.

I feel free to call, fax or email me if this requires additional clarification or discussion.

Sincerely,



George Dovel

Copies: Hank Berntsen, Randy Heffner, J.C Fry, Ringert & Clark