



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 5, 2002

Randy Heffner
14 Hill Creek Road
Horseshoe Bend, ID 83629

George Dovel
434 Pioneer Road
Horseshoe Bend, ID 83629

Re: Lockable and Controllable Diversion on Porter Creek

Dear Gentlemen:

This letter addresses your jointly used diversion from Porter Creek. I spoke to Mr. Dovel plus left a telephone message for Mr. Heffner earlier today about this diversion. The diversion has been commonly known as the "No. 6 and 7" point of diversion located at the site of the diversion box previously shared with D R & J Investments (formerly Double Diamond).

As required by Permit No. 65-12709 for power production, the diversion box shared with D R & J has been reworked to provide separate diversion systems for that owner and for your jointly used diversion. An inspection by the Watermaster and me on June 24, 2002, revealed that your newly configured diversion does not include a lockable and controllable component. While the flowmeter remains in place and presumably is in good working condition, flow of water into the pipeline cannot be physically adjusted and locked in place by the Watermaster under the current setup.

This is not acceptable in an active water district such as Porter Creek. 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. This requirement is referenced in I. C. §§ 42-607 and 42-701 and in conditions of approval of Permit Nos. 65-12709 and 65-22633. Failure to comply with the requirement can lead to a Notice of Violation pursuant to I. C. § 42-1701B and/or cancellation of the referenced permits.

Mr. Heffner and Mr. Dovel
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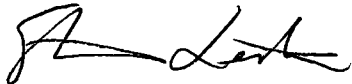
I trust the situation can be corrected without enforcement procedures. Early July is usually a critical time with respect to the Porter Creek water supply and often requires Watermaster regulation of the diversions. Your prompt attention to this matter will be appreciated to help maintain the operations of the water district.

Therefore, you shall complete installation of a lockable and controllable device on the pipeline in a manner acceptable to the Watermaster and the Idaho Department of Water Resources no later than July 12, 2002. Meanwhile, you are obligated to follow verbal instructions issued by the Watermaster to ensure the "No. 6 and 7" diversion does not divert water out of priority should such regulation become necessary. Please call the Watermaster at 365-4020 when the work is completed.

By copy of this letter, the Watermaster shall call me when the work is completed and inspected to his satisfaction. This should occur no later than July 15, 2002.

Thank you for taking care of this important step. Please call me at 334-2190 if you have any questions in this matter.

Sincerely,



Steve Lester
Water Rights Supervisor

CC: Hank Berntsen, Porter Creek Watermaster