


## MEMORANDUM

TO: Garrick Baxter and Sue Bock  
FROM: Steve Lester   
DATE: July 31, 2002  
RE: Porter Creek Information

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Two items from our meeting yesterday regarding watermaster delivery of Porter Creek water needed attention as follows.

**1) Did the watermaster lock the field valves when the #1 and/or #2 priority rights were delivered in 2001?**

I spoke to the watermaster today. He said he locked the #1 field valve during 2001 deliveries. As usual, this oldest right received water throughout the delivery season.

He said he did not lock the #2 field valve during the delivery period because “#2 received so little water during the critical period.” According to his notes, the critical day was August 22 when the watermaster had to curtail rights to ensure delivery to the #1 right. The #2 right was closed that day and remained locked until water availability allowed delivery on the last day of regulation, October 14, 2001. There was no point in locking the #2 field valve for a single day of delivery so late in the season.

The watermaster should have locked the #2 field valve for any 2001 delivery prior to August 22 of that year. Closer communication with IDWR could have ensured this step was completed. I imagine the lack of watermaster activity from 1995 through 2000 (very little or no deliveries) led to some inattention to this field valve requirement last year.

The watermaster has not received delivery calls for 2002 to date.

**2) What document authorized the watermaster to lock the above described field valves during delivery periods?**

The earliest reference I can locate is IDWR's letter of July 14, 1988. Also see the March 6 and March 9, 1990, references to the same requirement. I could not locate any reference to this in the 1989 information available at Western Region. My conclusion is IDWR required watermaster locks for the two field valves during deliveries beginning in mid-1988. As far as I know, compliance was adequate through active delivery years ending in

**Porter Creek Information  
July 31, 2002**

**1994. The slack years of 1995-2000 have already been mentioned. Active delivery resumed in 2001 with incomplete compliance. And 2002 has yet to see a delivery call. I reminded the watermaster to lock the field valves if he delivers water this year, and he said he would.**

**Attached are copies of the 1988 and 1990 documents previously mentioned. Please let me know if you need more details in this regard.**



*ORT 1988*  
*Letter M*  
*Condition*

State of Idaho  
**DEPARTMENT OF WATER RESOURCES**  
WESTERN REGION, 2735 Airport Way, Boise, Idaho 83705 • (208) 334-2190

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

July 14, 1988

DISTRIBUTION: Attached Mailing List

RE: Water Distribution on Porter Creek

Dear Interested Party:

On July 6, 1988, I accompanied the Watermaster of Water District 65-B, Porter Creek and tributaries, on an inspection of diversion facilities and water uses from Porter Creek. We made a number of observations and determined that some modifications to the water delivery systems are required. Since the inspection, the watermaster has discussed some of the items with individual waterusers, and some corrections to the system have been made.

The purposes of this letter are to apprise interested parties of the current status of water delivery on Porter Creek and to require that improvements be made to specified diversion systems. Improvements specified in this letter must be completed prior to August 1, 1988. Those not completed by that date are subject to legal action by the Department in conjunction with the Water District. Specific observations are as follows:

7/17/89  
OK

1. The pipe that flows into the Double Diamond measuring device at the upper diversion (located in the SW1/4 NW1/4 Sec. 7, T 7 N, R 3 E) appeared to be leaking initially, causing the measuring device to be inundated. However, during the past week the area around the pipe has appeared to be dry so the leak may have ceased. If any leaking resumes the pipe should be corrected accordingly.

OK

2. The diversion system for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) was leaking at the time of the inspection, but has since been sealed. It is important that this seal be maintained during periods when other water rights are shut off.

OK

3. The headgate for the Double Diamond first priority water right at the lower diversion (located in the NW1/4 SE1/4 Sec. 12, T 7 N, R 2 E) cannot now be regulated and locked. It is important that the watermaster have the capability to regulate this diversion in the same manner as the other diversions on the stream. Thus, a proper, lockable headgate must be installed.

7/7/89  
not ok  
will be  
fixed  
7/7 or 7/8

4. Because it is possible to use water from multiple sources on the Double Diamond ranch and the Oliver-Dobson ranch, the irrigators from these ranches must be prepared to demonstrate to the watermaster where water diverted from Porter Creek is being utilized at any time. Pipe connections that mix Porter Creek water with other sources must be valved so that the location of Porter Creek water can be clearly demonstrated. Owners of these ranches must provide the watermaster with a clear and easily read plan to describe how these piping and valve systems are operated. Additionally, she must be allowed to lock any valves that have the potential of diverting water to lands which do not have Porter Creek water rights.

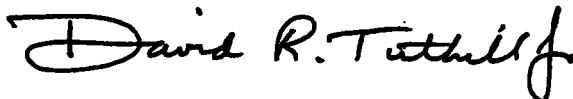
not ok  
needs  
attention

5. In the situation where one field is irrigated with water rights of differing priority dates, the wateruser must clearly distinguish the dividing line(s) between the lands irrigated with senior rights and the lands irrigated with junior rights.

6. Pursuant to Section 42-104, Idaho Code, the appropriation of water must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such purpose, the right ceases. Pursuant to Section 42-916, Idaho Code, any wateruser who wastes water is liable for all damages sustained by any other person, who would have been entitled to the use of such excess water. In a water district with a supply that is as limited as that of Porter Creek, it is imperative that during periods when a wateruser is not able to utilize a senior water right on the lands to which the right is decreed, the water must be immediately made available to junior water rights on the stream, via notification of the watermaster.

The waterusers on Porter Creek are fortunate to have an extremely dedicated and responsive watermaster in Elizabeth (Zippy) Pattee. She has already spent a significant amount of time in learning about the water delivery system and the individual water rights. She has demonstrated a willingness to do her part to make Water District 65-B a very well run operation. The items above constitute refinements of the tools that she needs in this effort. Please contact her or this office if you have questions about implementation of these requirements. We will do our best to insure that your water delivery is fair and in accordance with the law.

Sincerely,



David R. Tuthill, Jr., P.E.  
Manager, Western Regional Office

**Names and Addresses of  
Waterusers and Interested  
Parties,  
Porter Creek  
Water District 65-B**

**Double Diamond, Inc.  
C/O Donald Rumsey  
Rt. 1, Box 54  
Horseshoe Bend, ID 83629**

**Arlie L. Woods  
Horseshoe Bend, ID 83629**

**Mary C. Ihrig  
Horseshoe Bend, ID 83629**

**Jack Fry  
Horseshoe Bend, ID 83629**

**George Dovel  
Rt. 1 Box 61  
Horseshoe Bend, ID 83629**

**Everett K. Allen  
Cascade, ID 83611**

**Alfred C. Wolfgram  
Margaret I. Wolfgram  
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**Patricia L. Adams Miller  
5627 Freemont  
Boise, ID 83706**

**Elisabeth V. Wallace  
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**William D. Collins  
Attorney at Law  
Collins & Manly  
P.O. Box 2794  
Boise, ID 83701**

**Cleo Cockrum  
Rt. 1 Box 54  
Horseshoe Bend, ID 83629**

**Elizabeth Pattee  
Watermaster,  
Water District 65-B  
Gardena, ID 83629**

**Leo T. Oliver  
3357 Osprey Road  
Eagle, ID 83616**

**Steve Dobson  
Route 1  
Horseshoe Bend, ID 83629**

MEMORANDUM

TO: PORTER CREEK WATER DISTRICT MEMBERS  
FROM: STEVE LESTER  
DATE: MARCH 6, 1990  
SUBJ: CONDITIONS FOR WATER DELIVERY

During the past few irrigation seasons, a number of problems occurred throughout parts of the water district. The department has worked with the Watermaster to alleviate these problems. Some progress occurred but room for improvement exists. Please be aware of and prepare for the following items before the upcoming season. Your water delivery may be adversely affected by not meeting the required standards developed during the past few years.

ITEMS TO CONSIDER BEFORE THE WATERMASTER IS CALLED UP FOR THE SEASON AND DURING THE IRRIGATION SEASON:

1. Maintenance of diversions and headgates - be sure that checkdams are in good shape and that leaks are kept to a reasonable minimal amount. Are the headgate and measuring device securely in place and working properly?
2. Lockable headgates - no personal locks will be tolerated. The Watermaster will deliver water to headgates with a Watermaster lock but no other locks. Non-Watermaster locks will be removed and the headgate will be closed by the Watermaster. There are no exceptions to this condition. When water is short, you should be able to irrigate only when the Watermaster opens your headgate and delivers the water.
3. Co-mingled waters on the same land - the Watermaster must have control over Porter Creek water and be assured that the appropriate land receives the appropriate water. One-way valves or locking valves as used last year must be in place and accessible to the Watermaster before water will be delivered. The Watermaster has exclusive control over these valves.
4. Senior and Junior fields - adjacent fields with senior and junior Porter Creek rights must be clearly marked for the Watermaster's benefit. I will be glad to flag the fields again as I did last year. Water cannot be used on these fields, senior or junior, without such flagging.
5. Beneficial use must occur if the Watermaster delivers your water - wasting water is illegal. The Watermaster may close your headgate if beneficial use does not occur.

By preparing for the above situations, some problems will be avoided and the district will work more smoothly. I hope we can work together to make the most out of the available water. Please contact me at 334-2190 if I can help you.

*Distributed and discussed at annual district meeting on 3/8/90 -SL*



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

March 9, 1990

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

**DISTRIBUTION:** Attached Mailing List

**RE:** Water District Budget and Water Distribution on Porter Creek

Dear Interested Party:

This letter follows the annual water district meeting held yesterday in Horseshoe Bend. Items of discussion included the method of payments for the budget and conditions needed for water delivery by the watermaster. After discussing the situation with the Western Regional Manager, David R. Tuthill, Jr., a letter of clarification became necessary. Two topics are discussed. One concerns the budget process, and the other deals with delivery conditions.

**BUDGET AND PAYMENTS**

Section 42-614, Idaho Code, establishes the basis for payments by members of a water district. The statute states that payments shall be based on the amounts of water delivered by the watermaster. However, a district may decide to base payments on the amounts of water in the water rights instead of the amounts delivered as long as all district members agree. The total agreement is based on district membership instead of the outcome of the vote at the annual meeting. In other words, the law calls for water delivery budgets, but the unanimous decision by the members will allow water rights budgeting.

The members present yesterday voted unanimously to use the water rights budget method. However, all members were not present. Therefore, funding for the district will be based on the amounts of water in the water rights unless written objections are received at this office by March 26, 1990.

**WATER DELIVERY CONDITIONS**

Several issues emerged in the past few years that resulted in conditions necessary to allow water delivery by the watermaster. The following items summarize the conditions that are designed to improve the effectiveness of the district. Bear in mind that the watermaster needs controlled situations to be assured of proper water deliveries to users.

1. In order to deliver water, the watermaster needs properly maintained diversions, including checkdams, headgates, locks, and measuring devices. The watermaster and some of the waterusers expressed concerns about the reliability of the Dovel flowmeter for the headgate and pipeline originating in T7N, R3E, S. 7, SWNW. The department will work with the watermaster and Mr. Dovel to calibrate the flowmeter before watermaster deliveries begin this year. Remember that only the watermaster's locks may be used on headgates. There are no exceptions to this lock rule.

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Letter to Porter Creek Interested Parties

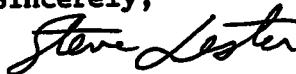
2. Because it is possible to use water from multiple sources on the Double Diamond and Oliver-Dobson lands, the irrigators of these lands must be able to show the watermaster where water diverted from Porter Creek is used at any time. Pipe connections that mix Porter Creek and other waters must be valved to easily demonstrate the location of Porter Creek water use. The watermaster must be provided with an easily understood explanation of the operation of pipes and valves that separate water from different sources. Also, the watermaster must be able to lock any valves that are potential points where Porter Creek water can be diverted to lands without Porter Creek water rights. Last year, these points were found in T7N, R2E, S. 2 and 11 for the Oliver-Dobson land and in T7N, R2E, S. 26 for Double Diamond land. The same controls used during the last season should be established in these areas.

3. In a situation where one field is irrigated with water rights of different priority dates, the wateruser must clearly distinguish the dividing line(s) between the land irrigated with senior rights and the acres irrigated with junior rights. In 1989, lines were flagged in T7N, R2E, S. 12, 23, and 26 for Double Diamond acres, and a natural feature, the bluff, was used for land in T7N, R2E, S. 2 and 11 on Oliver-Dobson land.

4. Pursuant to Idaho Code 42-104 and 42-916, water must be used for a beneficial use and water wasting may result in liability for damages caused to a person entitled to the water but denied use due to wasting. In a water district such as Porter Creek with a limited water supply, it is imperative that during periods when a wateruser cannot utilize a senior water right on the lands to which the right is decreed, the water must be immediately made available to junior water rights on the stream by notifying the watermaster. The watermaster will continue with visual inspections of key points to monitor water wasting. One key point is Jackass Creek. Another main point is the Oliver-Dobson diversion box at the end of the ditch in T7N, R2E, S. 11, SENE. Although additional controls are not needed at this time on the box, it will be monitored by the watermaster.

Once again, the waterusers on Porter Creek are fortunate to have Elizabeth (Zippy) Pattee returning as watermaster. She has worked hard to learn about water delivery and water rights. She continues to show a willingness to take the extra steps needed to improve the district. The above conditions will help her deliver your water fairly and effectively. Please contact her or this office (334-2190) if you have questions concerning these or any other items. We will do our best to insure that your water delivery is fair and legal.

Sincerely,



Steve Lester  
Sr. Water Resource Agent

SL:sl



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