

Water District No. 65

***Payette River Basin, State of Idaho
102 North Main Street
Payette, Idaho 83661***

*Watermaster
Mark Limbaugh*

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October 30, 2001

Mr. Kyle Ellis
Mr. Derroll Ellis
9982 Round Valley Road
Cascade, ID 83611

Re: Chipps Creek Water Rights Administration

Dear Mr. Ellis:

I received your reply to my correspondence dated October 24, 2001 outlining Chipps Creek water rights administration for the coming years. You have asked several questions that I will attempt to answer in this letter.

First, you asked about the trips that I have made in administering Chipps Creek water rights during the past two years. The three trips you identified were correct, I traveled to Round Valley in August 2000 with Gary Spackman, IDWR. I again traveled to Round Valley in June 2001 and again in October 2001. Unfortunately, your assertion that administering your senior priority water right should not share in the costs associated with these trips is not consistent with Idaho state water laws. Under the laws of this state, a Water District assesses water users proportionately based on either diversion of water or acres irrigated, depending on the resolutions passed at the District's annual meeting. The senior rights pay for administration the same as the junior rights. This may not seem fair, but it is the law. In your case, the District has not yet assessed the costs involved in the administration of water rights on Chipps Creek. It is my hope that I will not have to assess these costs as long as your senior stockwater right is being delivered to your field as detailed in my October 24 correspondence.

As far as your questions concerning my trips to Round Valley to attempt to divert water for a water right with 11 days remaining on the period of use, I was asked to address this problem by Mr. Ringel, who had 11 days remaining on the period of use for his water right. I made the determination that, due to your water right being senior and the lack of adequate flow in Chipps Creek, Mr. Ringel's water right had not been reinstated, even though you were not using your stockwater right at that time. I did, however, adjust and tag the headgate to Chipps Creek to remain open at least two inches to continue to keep water in Chipps Creek at all times, the headgate not to be touched by anyone without my permission, and I gave Mr. Ringel permission to open his headgate only if the structure was in danger of being flooded or washed out by future flows down the creek. If this has changed as you have indicated, then I will deal with whoever moved the headgate without my permission.

Second, you questioned my request that you install a weir at the head of your field. In reviewing last year's weir installation, it was my opinion that delivery of your stockwater right through your field without cattle grazing in the field should be read at the bottom end of the field. I was not correct in this assumption, and the Idaho Department of Water Resources, upon reviewing my recommendations, stated that your stockwater right should be delivered to the head end of the field, not the tail end of the field. In light of this view, my request for a weir at the head of your field is to deliver your senior stockwater right in a manner consistent with Department policy.

Third, you stated that my questions concerning the use of water from the end of your field should be redirected to the Valley County Road Department. As they also need a water right for this use of water, I will direct my question to them. They will, however, have a junior water right subject to call by Mr. Ringel during irrigation season.

Finally, as far as the future location and placement of weirs or other approved measuring devices for water rights upstream of your stockwater place of use, I will deal with those issues as the water right claims or applications are processed and forwarded to this office. In the meantime, we will continue to administer, as requested by the water users of Chipps Creek, the water rights of record from Chipps Creek consistent with the laws of the State of Idaho and the rules and resolutions of Water District No. 65, Payette River Basin. Of course, this administration will include payment of all costs incurred by the District in this endeavor as my correspondence of October 24, 2001 detailed.

If you have any further questions or have any other concerns, please do not hesitate to contact me at (208) 642-4465. Thank you for your cooperation in this matter.

Sincerely,

Mark Limbaugh, Watermaster

cc: Gary Spackman, IDWR
Norm Young, IDWR