



State of Idaho
DEPARTMENT OF WATER RESOURCES

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Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

September 1, 2000

KARL J. DREHER
DIRECTOR

RECEIVED

SEP 08 2000

Department of Water Resources
Eastern Region

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey, Chartered
P. O. Box 1391
Pocatello, ID 83204-1391

VIA FACSIMILE TO (208) 232-6109 (without attachment) AND FIRST CLASS MAIL

Re: Bancroft-Lund Ground Water Management Area
Warren Lloyd-Water Right No. 13-0213

Dear Mr. Budge:

This letter is provided in response to your letter dated August 29, 2000, requesting the immediate issuance of an order pursuant to Section 42-233(b), Idaho Code. The order would determine that the Bancroft-Lund ground water supply is insufficient to meet the demands of water right holders, and that all water rights would be delivered on a time priority basis, effective for the 2001 growing season. As you note in your letter, such an order must be issued before September 1 to be effective for the next growing season.

I have decided not to issue the order you requested. The Department of Water Resources does not currently have the information necessary to determine that the ground water supply available for diversion under Mr. Lloyd's water right is insufficient because of ground water withdrawals by other users. Additionally, the Department has insufficient information to determine which water rights would be prevented from diverting under the order you have requested. It was not possible to develop the required information to establish the insufficiency of ground water supply and then prepare and issue an appropriate order between the date of your letter (August 29, 2000) and today, September 1, 2000.

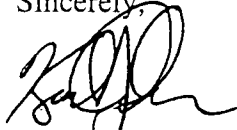
However, IDWR will investigate Mr. Lloyd's concerns and take action, as may be appropriate, under other authorities of the Department. Attached is a copy of the order creating the water district for the Bancroft-Lund area, Water District 13R (renumbered 13T). Please note that Paragraph No. 3 on page 7 of the order provides that "the watermaster shall not curtail the use of water under any junior priority ground water right using water as authorized by the right, unless the holder of the right has not paid the current water district assessment" The order specifically makes the distribution of water among ground water rights by priority subject to the following condition:

Randall C. Budge
September 1, 2000
Page 2 of 2

If data becomes available to demonstrate to the satisfaction of the director that withdrawals of ground water in the Bancroft-Lund Area have reduced ground water levels below reasonable pumping levels, junior ground water users will be required to reduce or eliminate diversion in accordance with the priorities of the water rights to the extent necessary to maintain reasonable ground water pumping levels, show to the satisfaction of the director their particular ground water use does not affect ground water levels which have gone below the reasonable pumping level, or may provide substitute water or other appropriate mitigation to senior ground water users at the cost of the junior ground water users. (Conclusion of Law No. 15 of the Director's Report entered in Civil Case No. 2919)

It is my understanding that Mr. Lloyd contends that reasonable pumping level, as provided in Idaho Code §§ 42-226 and 42-237a.g., is not an appropriate standard for managing his particular ground water right, because he does not believe that he is able to further deepen his well to obtain water if the reasonable pumping level is determined to be below his present level. This fall, Department staff will initiate an updated evaluation of the available hydrologic, geologic, and water right information for the Bancroft-Lund area. Depending on the outcome of that evaluation, the Department may schedule a meeting with all potentially affected water users in the area to outline an appropriate course of action to insure that the water rights of Mr. Lloyd and other water right holders are properly administered and protected.

Sincerely,



Karl J. Dreher
Director

Attachment

copy w/attachment to: Warren Lloyd
Ron Carlson, IDWR - Idaho Falls
Craig Shuler, Watermaster Water District 13T
Bart Christensen, Chairman Water District 13T

copy w/o attachment to: Norm Young, IDWR