



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

September 22, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED

SEP 24 1998

Department of Water Resources
Eastern Region

Re: Water District No. 29

Dear Wateruser:

Enclosed is a notice of hearing regarding a Petition for Administration of Water in the Portneuf River filed by McCammon Ditch Company. You were notified of the petition, and received notices of conferences and hearings in the past.

The last notice of hearing mailed on April 28, 1998 stated: **"The time for filing an answer is extended to twenty-one days following the date of this Notice of Hearing."** Answers should have been filed on or before May 19, 1998. No answers were filed with the Idaho Department of Water Resources.

Because you did not file an answer, you are not a party in the contested case. IDWR will not send you any notices of case proceedings in the future, including notices that the hearing has been canceled or postponed. You are not entitled to participate as a party in the upcoming hearing, but may attend and observe.

Sincerely,



Gary Spackman

GS:st

cc: Skip Jones - (for your information only)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 5, 1998

RE: In the matter of the Petition of McCammon Ditch Company for the Enforcement of Decree and Order.

Dear Interested Parties:

The accompanying order is a "preliminary order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding to the Director. Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one(21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,

- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, MANAGER
Western Regional Office

Enclosure

RECEIVED

MAY 15 1998

Department of Water Resources
Eastern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PETITION OF)
MCCAMMON DITCH COMPANY FOR))
ADMINISTRATION OF WATER)
WITHIN WATER DISTRICT 29)

NOTICE OF HEARING

On February 14, 1995, McCammon Ditch Company (McCammon) filed a Petition for Enforcement of Decree and Order with the Idaho Department of Water Resources (IDWR). The petition states that an order requiring installation and maintenance of headgates, controlling works and measuring devices, was issued by the Director on October 5, 1990, and alleges water users diverting water from the Portneuf River and its tributaries have not complied with the order, and that IDWR has failed to enforce the order. The petition specifically alleges: (1) Portneuf Marsh Valley Canal Co. (PMV) has failed to develop a stage-storage relationship as required by the October 5, 1990 order; (2) Portneuf Irrigating Company (PIC) and PMV have failed to install adequate measuring devices to properly regulate the division of the PIC and PMV water; and (3) PMV has expanded its storage and irrigation rights, and the expanded storage and irrigation rights have and are being improperly delivered without loss down the Portneuf River channel.

IDWR held prehearing a conference on May 2, 1996, regarding the petition. The issues were not resolved.

IDWR will conduct a hearing regarding the petition beginning at 9:00 a.m. on July 1 and continuing on July 2, 1998, if necessary. The hearing will be conducted at the Old Depot, 802 Front Street, McCammon, Idaho 83250. The hearing officer will be Gary Spackman.

Rule 270.01 of IDWR's Rules of Procedure (IDAPA 37.01.01.270.01) states that answers to a petition must be filed with IDWR and served on all the parties within twenty-one (21) days of the date of service on the initial petition "unless order or notice modifies the time within which answer may be made . . . " **The time for filing an answer is extended to twenty-one days following the date of this Notice of Hearing.**

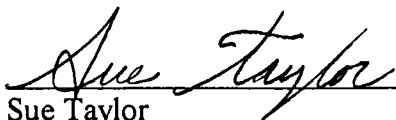
The conference will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise IDWR prior to the conference.

DATED this 28th day of April, 1998.


GARY SPACKMAN

CERTIFICATE OF MAILING

I do hereby certify, that on this 28th day of April, 1998, I mailed a true and correct copy, postage prepaid of the foregoing NOTICE OF HEARING to those on the attached Water District 29 mailing list:



Sue Taylor
Senior Secretary

**IDAHO DEPARTMENT OF
WATER RESOURCES
WATER DISTRICT 29 MAILING**

ALLAN, JEFF
1259 E MERRILL EXT
MCCAMMON ID 83250

ALLEY, IRIS

LAVA HOT SPRINGS ID 83246

ANDRUS, JIM
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

ANDRUS, KEN
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

ARCHER, FRANK
1060 STAKLER RD
BANCROFT ID 83217

ARCHIBALD, TOM
10408 E THUNDER MTN RD
PO BOX 338
LAVA HOT SPRINGS ID 83246

AVERY, LELAND

LAVA HOT SPRINGS ID 83246

BAKER, REX

LAVA HOT SPRINGS ID 83246

BANKS, ERMA

BANCROFT ID 83217

BOLLINGER, DEAN
6555 S OLD HWY 91
MCCANNON ID 83250

BUDGE, RANDALL C
RACINE OLSON NYE COOPER &
BUDGE CHTD
PO BOX 1391
POCATELLO ID 83204-1391

BURGESS, JOSEPH CHARLES
175 E 14
IDAHO FALLS ID 83401

CALDWELL, DARWIN

BANCROFT ID 83217

CAMMACK, REED
300 LOGAN
MC CAMMON ID 83250

CARIBOU COUNTY CLERK
BOX 775
SODA SPRINGS ID 83276

CASPERSON, BRETT
8893 E MAUGHAN RD
LAVA HOT SPRINGS ID 83246

CHESTERFIELD CANAL CO
C/O DANIEL DAVIDS
19 N 4 WEST
LAVA HOT SPRINGS ID 83246

CHRISTENSEN, ALLAN

LAVA HOT SPRINGS ID 83246

CHRISTIENSEN, ELLIS

LAVA HOT SPRINGS ID 83246

CHRISTENSEN, KAY E ESQ
SERVICE GASSER & KERL
PO BOX 6009
POCATELLO ID 83205-6009

CRUMP, NYLE
1260 CHESTERFIELD ROAD
BANCROFT ID 83217

CUTLER DITCH
C/O ROGER JOHNSON
3369 E HWY 30
MCCAMMON ID 83250

DAVIDS, FLORENCE

BANCROFT ID 83217

DEMPSEY IRRIGATION
COMPANY
C/O EARL H. SMITH
LAVA HOT SPRINGS ID 83246

DOUBLE A LAND AND
LIVESTOCK
2893 E PRICE RD
MC CAMMON ID 83250

EGLEY, GRANT H
BOX 216
LAVA HOT SPRINGS ID 83246

FAGNANT&OLSON FARM

LAVA HOT SPRINGS ID 83246

FISHCREEK IRRIGATION
C/O WALLACE WHITEHEAD
LAVA HOT SPRINGS ID 83246

FRANK, NORMAN
835 WEST 100 S
BLACKFOOT ID 83221

GILBERT, ERVIN
PORTNEUF MARSH VALLEY
CANAL CO
VIRGINIA ID 83234

HALL, MAX
LAVA HOT SPRINGS ID 83246

HALL, HOWARD
MCCAMMON ID 83250

HANLEY, JEAN
1234 W COPPER STREET
BUTTE MT 59405

HANSEN, K V
BANCROFT ID 83217

HARRIS, JEFF
MC CAMMON ID 83250

HARRIS, DEWAYNE
102 CENTER
MCCAMMON ID 83250

HATCH, WAYNE
BANCROFT ID 83217

HATCH, WILDER
BANCROFT ID 83217

HATCH, PAUL JR
BANCROFT ID 83217

HATCH, DALE
PO BOX 132
ARIMO ID 83214

HOLSTEN, MIKE
BANCROFT ID 83217

HULL, ROLAND E
131 E CINDY AVE
INKOM ID 83201

IRICK, MRS J B
SUNNYSIDE RD
LAVA HOT SPRINGS ID 83246

JOHNSON, ROBERT
PORTNEUF IRRIG CO
3369 E US HIGHWAY 30
MCCAMMON ID 83250

JORGENSEN, EARL
BANCROFT ID 83217

JUNOD, JEFF
6755 S OLD HWY 91
MC CAMMON ID 83250

KEVAN, BARBARA
3462 N 2500 E
TWIN FALLS ID 83301

KEY BANK
C/O DICK SWAGER
PO BOX 2757
BOISE ID 83701

KING CREEK GRAZING
C/O STEVE HEBDON
BANCROFT ID 83217

KNOWLES, KEN
PO BOX 342
LAVA HOT SPRINGS ID 83246

KOESTER FARMS INC
RT 1
DOWNEY ID 83234

LARSEN, MRS. WALTER
MC CAMMON ID 83250

LAVA IRRIGATION COMPANY
C/O TRISH AVERY BOX182
LAVA HOT SPRINGS ID 83246

MARLEY TRUST, JOHN
1299 S HENDERSON RD
MC CAMMON ID 83250

MCCAMMON DITCH COMPANY
C/O BYRON ALLEN
MCCAMMON ID 83250

OLSON, ARLIN G
WATERMASTER DIST 29
PO BOX 644
LAVA HOT SPRINGS ID 83246

PARKER, STEPHEN
8291 S ROBIN RD
MCCAMMON ID 83250

PERKINS, RONDO
BANCROFT ID 83217

PERKINS, WAYNE
BANCROFT ID 83217

PERKINS, GLEN

LAVA HOT SPRINGS ID 83246

PETRUN, RAY

PO BOX 242

LAVA HOT SPRINGS ID 83246

PHILLIPS, CARL

2884 W 1400 SO

ABERDEEN ID 83210

PMV CANAL COMPANY

C/O JOHN BRADY

DOWNEY ID 83234

PORTNEUF IRRIGATION CO

C/O DELORES SMITH

6868 S OLD HWY 91

MC CAMMON ID 8324-6

POTTER, FAWN

BOX 632

LAVA HOT SPRINGS ID 83246

PRIESTLY, J W

435 S 7TH AVE

POCATELLO ID 83201

REDFORD, ROSS

BANCROFT ID 83217

RINDLISBAKER, ROSA

BANCROFT ID 83217

ROBERTS, WALLACE

RT 1 BOX 33

ABERDEEN ID 83210

ROWSELL, FARRELL

LAVA HOT SPRINGS ID 83246

ROWSELL, CALVIN

LAVA HOT SPRINGS ID 83246

RUSH, EVELEE

340 S 11TH AVE

POCATELLO ID 83201

SMITH, ALAN

KELLY ROAD

BANCROFT ID 83217

SMITH, DEAN

KELLY ROAD

BANCROFT ID 83217

SMITH, EARL

LAVA HOT SPRINGS ID 83246

SMITH, DELMO

2629 KELLY ROAD

BANCROFT ID 83217

SORENSEN, TED

5203 S 11 E

IDAHO FALLS ID 83437

SYMMONS, LYNDEN

LAVA HOT SPRINGS ID 83246

TAYLOR, KENNETH MRS.

BANCROFT ID 83217

THOMPSON, THAYNE

DOWNEY ID 83234

THUNDER MOUNTAIN GOLF
COURSE

LAVA HOT SPRINGS ID 83246

TILLOTSON, RONALD

LAVA HOT SPRINGS ID 83246

TILLOTSON, KIT

11897 S DEMPSEY RD

LAVA HOT SPRINGS ID 83246

TOPAZ IRRIGATION COMPANY

C/O GENE FAGNANT

BOX 293

LAVA HOT SPRINGS ID 83246

TOPONCE CANAL COMPANY

C/O WILDER HATCH

BANCROFT ID 83217

TREASURE, JEAN

BANCROFT ID 83217

U.P.R.R.

BOX 2500

BROOMFIELD CO 80020

VILLAGE OF LAVA HOT

SPRINGS

LAVA HOT SPRINGS ID 83246

VILLAGE OF MCCAMMON

MC CAMMON ID 83250

WILDE, REO D

MC CAMMON ID 83250

WILSON, JESSE

LAVA HOT SPRINGS ID 83246

WISSA, MAHER

2121 MARIGOLD

POCATELLO ID 83201

WISTISEN, STANLEY

115 S 1 WEST

BANCROFT ID 83217