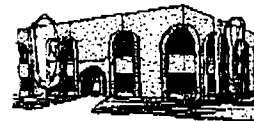


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October 19, 1998

*Transmitted via telefax - 208-327-7866*Tim Luke
State of Idaho
DEPARTMENT OF WATER RESOURCES
P.O. Box 83720
Boise, ID 83720-0098Re: Portneuf River Tours
Petition by McCammon Ditch Company

Dear Tim:

This letter is to confirm our telephone conversation of October 16, 1998. At that time, I indicated I had met with Howard Hall and Byron Allen regarding your letter of October 14, 1998, as a follow up to the Portneuf River Tour. I indicated that McCammon Ditch Company was, by large part, satisfied with your letter and just had a couple of additional comments and suggestions to you to fully resolve the matter at this point.

First, McCammon Ditch Company requests that the Department of Water Resources research and send out to companies and diverters who divert over 30 Cfs, information on the cost and other information regarding cost share programs or any other benefits of having measurement recorders in place. The information would be general information on what equipment is available, the estimated cost for the equipment, and any programs or other avenues of payment which could help fund such diverters putting the recorders in place. You indicated that you would send out that information, but were going to wait to compare the water master's records with the recorded information provided by McCammon Ditch Company and send out that information together. Of course, if there is a disparity, it would be an additional incentive to users to use recorders and I see the reasoning behind doing the comparison before sending out the information on the type of recording devices available, their cost and other such information. McCammon Ditch Company certainly urges the Department's support of additional monitoring efforts in collecting more data, but understands the need to review the data to see what the objectives and costs of the efforts should reasonably be. I will remind the McCammon Ditch Company to provide data so you can compare it with the daily water master readings, in order to further evaluate those benefits.

Regarding the PMV-PIC shared canal and PIC diversions/canal, I indicated that McCammon Ditch Company wants to do further research and investigation on that and believe that one possibility suggested in your letter of installing a pipe from the PMV canal in order to turn the unused water directly into the McCammon Ditch may be a very viable option. They are going to

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talk to the hydroplant owner, who may have to install a pipe anyway, to see if those two issues can be resolved together. Of course, a measuring device would also have to be installed, but if they can find a way to share some of the cost, it may benefit all parties involved. We will certainly keep you informed of anything we find out in that regard.

I understand that after the River Tour, you learned some additional information and believe that at least 3 Cfs of water has been diverted below the split with the PIC canal, which would require a transfer in place of use or prohibition of further diversion. I understand you will take that up with the diverter and indicate to them that they either need to apply for a transfer or the diversion will be prohibited. Based on that, I understand you are leaning toward having lateral managers used to measure and regulate the diversions on the shared portion of the PMV-PIC canal. I understand you will follow that up further directly with the parties involved, including the McCammon Ditch Company.

Finally, McCammon Ditch Company would like to be notified of the recommendations on the test of the futile call regarding the diversion on King Creek, identified in your letter. They just request that when the water master regulates the diversion next year and determines if such action results in the futile call, or not, that that information be passed onto McCammon Ditch Company. You stated that the information would be shared.

The other recommendations and information provided in your letter were agreeable to McCammon Ditch Company any they support the same. I know McCammon Ditch Company certainly appreciates the time and your efforts in taking the river tour and reviewing their concerns. Based on all this, McCammon Ditch Company has requested a withdrawal of their petition and understand you will vacate the hearing scheduled for October 20th. You indicated that you would vacate the hearing and note the withdrawal of the petition. I indicated, and you acknowledged, that the withdrawal would be without prejudice to McCammon Ditch Company to refile a petition if they ever deem it necessary and that my client reserves any concerns or arguments they have regarding the shrink issue from the reservoir when the adjudication takes place in this area. You acknowledged that withdrawal of the petition would not prejudice McCammon Ditch Company's rights to take further action down the road if they deem necessary.

I appreciate your cooperation and assistance in getting this matter resolved.

Very truly yours,

SERVICE, GASSER & KERL



Jim Spinner

JS/lml

cc: Howard Hall
Byron Allen