



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 15, 2005

Del Owens
P.O. Box 368
Inkom, ID 83245

RE: Surface Water Use in District 29 and Related Districts Tributary to the Portneuf River

Mr. Owens:

The Department of Water Resources received your letter dated February 1, 2005 addressed to the Director. In the letter you listed several concerns related to administration of surface water in your area, primarily with respect to the establishment of better control over water distribution from natural streams as well as on your lateral ditch. Among other things, you expressed your desire that a water master be appointed to oversee the distribution of water in your area and perhaps other areas that are tributary to the Portneuf River.

Your property is located within water district 29-U, an inactive water district within basin 29. The other areas you mentioned within basin 29 that are inactive and have no water master (Marsh Creek, Walker Creek, etc...) are, along with 29-U and the rest of basin 29, under consideration for consolidation of water districts in the area sometime in the next 1-2 years. It is likely that the inactive water districts you mentioned will become active within the next few years. When this happens, a water master will be elected to oversee distribution of water in these areas and improvements such as additional measuring devices or repairs to head gates may occur.

It appears that your water rights on Rapid Creek may be part of Water District 29-F. It may be in your interest to attend the annual water district meeting as it may provide an opportunity to discuss some of your concerns. The Department will make an effort to have a representative at the meeting as well. The meeting is scheduled for 7 pm Wednesday March 2, 2005 at Inkom City Hall. According to our records, the district has not selected a water master, and the annual meeting is the time when that would be done. However, it is probably best to start the process in advance of the meeting by contacting Samuel D Chandler (the advisory committee chair for District 29-F) and expressing your wish that a water master be elected. His address and phone number are 107 E Inman Rd Inkom, ID 83245, (208) 775-3679.

The water rights on Rapid Creek have undergone adjudication, and the Department can provide copies of the partial decrees that specify how water is to be allocated. The partial decrees state the findings of the adjudication court and contain the current legal descriptions of water rights on Rapid Creek. Distribution of water on Rapid Creek must conform to the partial decrees to be lawful.

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In addition to getting a water master in District 29-F, the users in District 29-U can make the district active by calling a meeting to set a budget and elect a water master. Alternatively, IDWR can appoint a water master and set a salary for either or both of these districts. Please contact Roger Warner at the IDWR Eastern Regional Office (208) 525-7161 if you have any other questions regarding these water districts and/or the annual meeting for District 29-F.

In your letter, you also suggested the possibility that, on some occasions, certain water rights may be satisfied ahead of others without regard to seniority because the diversions are further upstream ("first in line is first in time") and that some diversions may be occurring without a legal right to divert water. The letter also suggested that water may be delivered through a process of favoritism rather than the prior appropriation doctrine. If water right holders are not getting water they are entitled to, the Department can make an investigation and take action, if necessary, to correct these problems.

The establishment of a ditch users association with governing rules, as you suggested, may help reduce the occurrence of these types of incidents. Under Idaho code 42-1308, you may petition the Director of the Department of Water Resources to appoint a ditch manager in the event the users fail to form an association and/or elect their own lateral managers.

You also expressed concern about depletion of the aquifer due to reduced recharge and increased pumping, both resulting from development of a new residential area. If, as you stated in your letter, the water rights for that land are to be transferred to other places of use, and if the residences will be drilling a new water supply well, you will have the opportunity to protest these activities under Idaho Code 42-222, or protest any new water right applications filed for a new well (unless the well is only for domestic use as defined in Idaho Code 42-111).

If you have any further questions, feel free to contact our office or the Eastern Regional Office.

Respectfully,



Nick Miller
Water Distribution Section

Enclosures: Photocopies of Idaho Code 42-111, 42-1308 and 42-222 (6 pages)

Cc: IDWR Eastern Region Attn: Roger Warner.

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