



State of Idaho
DEPARTMENT OF WATER RESOURCES

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May 16, 1994

CECIL D. ANDRUS
GOVERNOR

Mr. Jay Hulet
HC 79, Box 2000
Murphy, ID 83650

R. KEITH HIGGINSON
DIRECTOR

Mr. Paul Nettleton
Murphy, ID 83650

RE: Establishment of a Lateral Water Users Association on Murphy
Mutual Canal

Gentlemen:

I am in receipt of a letter in which Mr. Nettleton declined to become a member of the proposed Murphy Mutual Canal Water Users Association because of Mr. Hulet's insistence on placing canal maintenance language in the Articles of Association. Mr. Hulet refused to sign the initially drafted Articles of Association which did not include language about maintenance, but did send to the office a signed copy of the version which had maintenance language added upon his request.

As described in my letter dated March 14, 1994, when Mr. Hulet, Mr. Nettleton and I discussed the potential for forming a Lateral Water Users Association on the ditch bank last year, I indicated that the Department would **not** be involved in attempting to resolve the court-disputed maintenance payment issue. At that time we all agreed that canal water delivery could be separated from canal maintenance and that the latter would be excluded from the delivery agreement. Now it appears that the voluntary formation of the Association has been forestalled by disagreement over this issue.

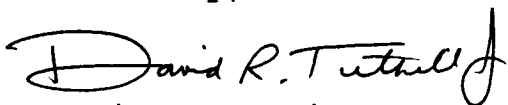
Accordingly, the purpose of this letter is to notify the recipients of this letter that the Department and the Watermaster of Water District 57-D jointly invoke the provisions of Idaho Code §42-909 to appoint a Lateral Manager for the Murphy Mutual Canal. The manager so appointed is Mary Blackstock. Payment for the manager shall be in the manner that we discussed at the annual meeting of Water District 57-D, whereby the waterusers are to be assessed a sum based on the amount of water delivered. Because this 1994 water year is a drought year and very little water will be delivered to the lower users on Murphy Mutual Canal, it is possible that the duties of the Lateral Manager will be limited this year. However, we envision this process of having the Watermaster also serve as the appointed Lateral Manager to also be utilized in future years, because of the unique water delivery considerations in the Sinkers Creek Water District.

Page 2
May 16, 1994

As we have stated before, because the matter of maintenance payments for the canal has already been reviewed by the courts, this aspect will not be addressed by the Watermaster, the Lateral Manager or the Department. Any continuing disputes in this regard should be referred to the jurisdiction that has already addressed this matter.

The purpose of this letter is to make this initial Lateral Manager appointment in preparation of any delivery requirements for this year. The Department is prepared to assist the Watermaster/Lateral Manager to review the measuring devices and lockable diversion works in the Murphy Mutual Canal before any delivery takes place. As we have stated before, the measurement and delivery improvements that each party agreed to make in our meeting last fall will be needed before the Lateral Manager can make deliveries from the canal. I invite you to coordinate with Mary Blackstock, who will schedule a meeting with you and either Cindy Hodges or myself, when the devices are ready for inspection.

Sincerely,



David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Owyhee County Prosecutor
Mary Blackstock
Norm Young