



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

November 23, 2001

RECEIVED

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Department of Water Resources  
Eastern Region

Paul K. Link, President  
Portneuf Greenway Foundation  
P.O. Box 71  
Pocatello, ID 83204

Re: *Portneuf River Season of Use*

Dear Mr. Link:

Your letter to Director Karl Dreher dated October 20, 2001 regarding the season of use for irrigation diversions from the Portneuf River has been forwarded to me for response. Because the issue that you raise relates directly to the water right determinations in the Snake River Basin Adjudication (SRBA), I will respond to your concerns in light of this process.

As you are likely aware, the Idaho Department of Water Resources (IDWR) is presently in the process of investigating claims to water rights in the Portneuf River Basin. The duty of IDWR is to investigate claims to water rights within the basin, and to recommend our findings to the SRBA District Court via recommendations in a formal Director's Report. The Director's Report for the Portneuf River Basin is anticipated to be filed mid-year in 2002.

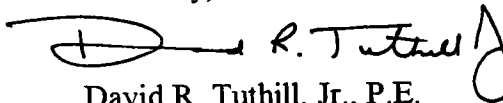
When IDWR recommends the season of use element for a water right, we consider seasons set forth in prior decrees or licenses, historical uses, and IDWR's standard season of use for the area that is based on climactic data. In this particular area there has been a prior decree from 1921, in *Union Grain & Elevator Co. v. McCammon Ditch Co.*, in which the season of use for many of the water rights from the Portneuf River was set at April 15<sup>th</sup> to September 15<sup>th</sup>. Since this decree was issued, many water rights have been changed and new appropriations have occurred. IDWR understands that many water users who received decreed rights from the *Union Grain & Elevator* decree have used their water rights for periods longer than what was decreed; it is our understanding that early and late season irrigation has occurred on the Portneuf River for several decades.

Based on this information, IDWR will include a "shoulder remark" on specific water rights that allows early and late season irrigation with language subordinating this lengthened season to the date of the partial decree for that water right. For those water rights where there has been a constitutional appropriation that is claimed by a water user, IDWR will recommend a beneficial use water right for early or late season irrigation, in situations where the water user can prove that the uses pre-date 1971. Thus IDWR's recommendation of the longer season than what was initially decreed in the *Union Grain & Elevator decree* should not change the historical use of this river, but would serve to record diversions as they have historically existed.

You have requested to be placed on a mailing list for developments related to the Portneuf River basin. While we do not have such a mailing list, we do provide monthly updates on the status of our recommendations. These updates are posted to our website at <http://www.idwr.state.id.us/info/water/srba/main.htm> in the link entitled "Overview." Here you can monitor the progress of reporting Basin 29, the Portneuf River Basin. In order to formally object to a recommendation, your organization must be a party to the SRBA. In this regard you may wish to seek legal counsel.

Hopefully this explains IDWR's recommendation process and helps to address your concerns. If you have any further questions, please feel free to contact me.

Sincerely,



David R. Tuthill, Jr., P.E.  
Adjudication Bureau Chief

cc: Ernest Carlsen, SRBA Supervisor, Eastern Regional Office, Idaho Falls  
IDWR Adjudication Attorneys