



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 17, 2005

Re: Petition for Lateral Water Manager, McMillan Lateral

Lateral Water User,

Records submitted to the Idaho Department of Water Resources ("IDWR") by the Settlers Irrigation District ("Settlers") indicate that you are the owner of a lot that may be assessed by Settlers. Records of Settlers also indicate that if you receive water, it is delivered via the McMillan Lateral, a lateral to which Settlers delivers water from its main canal. Please disregard this notice if Settlers does not assess your lot, or if your lot does not receive water from the McMillan Lateral.

On June 17, 2005, the Idaho Department of Water Resources ("IDWR") received a petition from Richard L. Vaughn requesting that IDWR appoint a lateral manager pursuant to Section 42-1308, Idaho Code. The petition alleged that lot owners within the Jones-Stiburek sub-division, who are members of Settlers and entitled to receive water, are either not receiving water during their scheduled irrigation times, or they are not receiving a sufficient supply of water during their scheduled rotations. The petition further alleges that certain other properties serviced by the McMillan Lateral receive water out of schedule and/or are over allocated water. The petition also alleges that no lateral ditch water users association exists that has management jurisdiction and authority over water delivery from the McMillan Lateral.

On August 3, 2005, IDWR received a letter from the manager of Settlers in support of Mr. Vaughn's petition asking IDWR to appoint a lateral manager for the McMillan Lateral. Settlers indicated that the Vaughn petition accurately described injuries to the petitioner and others within the McMillan Lateral. Settlers acknowledged that there has been a history of water delivery problems and lack of management within the lateral. IDWR has received at least one other letter from a lateral user in support of the petition. IDWR has received complaints from several additional water users over the past two years regarding inappropriate delivery, or lack of delivery of water within the McMillan Lateral system.

Section 42-1308, Idaho Code requires that IDWR make a reasonable effort to provide written notice of any petition to appoint a lateral manager to all persons having rights to the use of water from the lateral to which appointment of a manager is sought. IDWR therefore is sending this notice in accordance with Section 42-1308. IDWR delayed issuing notice of this petition due to questions about the large number of lots and lot owners potentially serviced by the McMillan Lateral and affected by the petition.

Since the 2005 irrigation season is now over, IDWR believes that the water users within the McMillan Lateral have an opportunity to form a lateral water users association for the McMillan Lateral, hold a meeting and elect a lateral manager as provided by Chapter 13, Title 42, Idaho Code, before the next irrigation season. Proper formation and implementation of a lateral association by the users should provide the necessary relief sought by the petition.

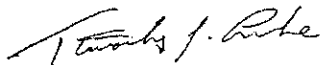
IDWR therefore will defer action on the petition until April 1, 2006. If the users hold a meeting and elect a lateral manager as provided by law, then IDWR would expect the petition to be withdrawn by April 1, 2006. If the users fail to meet and elect a lateral manager, or a lateral manager is not selected in accordance with provisions of the law, then IDWR can proceed to issue an order either appointing a lateral manager or declining appointment of a lateral manager pursuant to Section 42-1308, Idaho Code. The law provides that if the Director of IDWR appoints a lateral manager, then the Director may also fix the compensation of the lateral manager. In the event that the Director should find it necessary to appoint a lateral manager, the Director will likely seek to appoint a qualified person who has a neutral interest in the lateral. In addition, the lateral manager may exercise the duties of all association officers if the users fail to elect such officers.

This notice has been sent to owners of lots assessed by Settlers and within the McMillan Lateral in the following sub-divisions:

- Demeyer Estates sub-division 3
- Demeyer Park sub-division
- Hickories sub-divisions 1, 3, 4, 5, 6 and 12
- John McMillan First sub-division
- Jones-Stiburek sub-division

Any user within the McMillan lateral receiving this notice or affected by this notice may file a written response to the Department by April 1, 2006. Written responses may be sent to IDWR at PO Box 83720, Boise, ID, 83720-0098. Copies of the petition and all related correspondence are on file at the IDWR State Office located at 322 E Front St., Boise. Interested parties may visit the state office at this location during normal business hours to review the petition and any related documents. If you have questions concerning this matter, or if you wish to obtain copies of the petition and any related information, please contact either Tim Luke at 287-4959, or Chris Roberts at 287-4958.

Respectfully,



Tim Luke
Water Distribution Section

Enclosure: Vaughn Petition and Section 42-1308

Cc: Rich Vaughn
Nathan Draper, Settlers Irrigation District
IDWR Western Region
Lee Sisco, Watermaster, Water District ³6~~5~~, Boise River