



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

April 20, 1994

Jack Eastman
Watermaster, Water District 47C
106 Doral Dr.
Jerome, ID 83338

RECEIVED

CECIL D. ANDRUS
GOVERNOR

KEITH HIGGINSON
DIRECTOR

APR 20 1994

Department of Water Resources
Southern Region Office

Re: Water District 47-C, Delivery of Water from Deadwood Creek,
Devil Ranch Creek Water Right No. 51-00132

Dear Jack:

The purpose of this letter is to provide you with some direction concerning the delivery of water from Deadwood Creek and to address the question concerning the irrigation season of use for the Devil Creek Ranch water right from Deadwood Creek. The right in question is identified in the Department's records as right number 51-00132 and has a diversion rate of 3.0 cfs with a priority date of April 1, 1886.

This letter also confirms my meeting with you on April 15, 1994 and our investigation of Deadwood Creek, Devil Creek and the Cedar Mesa cross cut canal. I wish to confirm also that I delivered to you a copy of the April 5, 1994 letter from Justin Seamons, attorney for Devil Creek Ranch, to the Department of Water Resources, as well as the copy of the Idaho State Supreme Court decision, Devil Creek Ranch Inc. v. Cedar Mesa Reservoir and Canal Co. (April 28, 1993). Mr. Seamons' letter requests that the Department direct you to deliver water to Devil Creek Ranch in 1994 according to the general guidelines for recommending seasons of use in the Snake River Basin Adjudication, which is April 15 to October 15.

The Department has interpreted the above referenced Supreme Court decision and subsequent 3rd Judicial District Court judgment of August 18, 1993 to mean that the Devil Creek Ranch right from Deadwood Creek is not necessarily subject to the irrigation season which is described in the 1925 court decree which you normally use to deliver Deadwood Creek water rights (Grand View Irrigation District v. Bruneau Buckaroo Co-operative Ditch Co., 3rd Judicial District of Idaho, Feb. 16, 1925). This does not mean however that the April 15 to October 15 irrigation season as proposed by Mr. Seamons automatically applies to the Devil Creek Ranch Deadwood Creek right. The Department has not yet made any recommendations regarding water rights or season of use for Basin 51 in the Snake River Basin Adjudication. In addition, I do not consider Mr. Seamons' letter to represent a call for watermaster services as required under Section 42-608, Idaho Code.

It was apparent from our inspection on April 15 that the meadows along Deadwood Creek, including the Devil Creek Ranch place of use, were fairly dry for this time of year. I have concluded that unless the weather becomes unexpectedly cold and wet, it would not be unreasonable to be irrigating these fields prior to May 15 of this year. I believe that Devil Creek Ranch could make beneficial use of water from Deadwood Creek by calling for delivery of its' right prior to May 15 of this year. In many years, it is likely that irrigation would not be necessary in this area until after May 15.

Given the Supreme Court decision and subsequent district court judgement, and considering that this is a very dry spring and water can be put to beneficial use, you are directed to deliver water from Deadwood Creek to Devil Creek Ranch prior to May 15 of this year pursuant to a formal call for the water by Devil Creek Ranch. This means Devil Creek Ranch must submit to you and the Department of Water Resources a written request for delivery of its water, stating that there is a necessity for the use and control of the waters in the water district. Devil Creek's request should specifically state when they want their water delivered.

Upon receiving this request, you must complete the oath of office before a notary public or other officer authorized to administer oaths. An oath of office form has already been provided to you by our regional office. When the Department has received both the oath and the petition for watermaster's services, then the Director can officially appoint you as watermaster and you will then be covered by the state group surety bond as provided by Sections 59-801 through 59-804, Idaho Code. As watermaster, you are not authorized to regulate or control headgates until you have been officially appointed. The Department can work with you in providing an expedited appointment if necessary.

When delivering Devil Creek Ranch's water right from Deadwood Creek, I advise you to try and turn out at least 3 cfs to Deadwood Creek from the Cedar Mesa Crosscut Canal headgate structure. It may take more water than 3 cfs to deliver the full right to Devil Creek's ditch and Parshall flume. Since Devil Creek Ranch does not have an actual headgate from Deadwood Creek (unless they accept the Cedar Mesa structure as their headgate), I would suggest that you make an attempt to get the 3 cfs to Devil Creek's Parshall flume. Review of the 1925 Grandview Irrigation decree does show that the Devil Creek Ranch point of diversion was located in the vicinity of where the Deadwood Creek channel disappears and becomes the Devil Creek Ranch ditch. The Department may consider requiring Devil Creek Ranch and other users on Deadwood Creek to install headgates and move measuring devices near the headgates. The Department may further consider requiring Devil Creek Ranch to install measuring devices on its' Devil Creek-Crosscut Canal diversions to assure that Devil Creek Ranch is only diverting natural flow of Devil Creek, and not flow from Deadwood Creek.

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Please contact me directly at 327-7864 if you have any questions concerning this matter. I plan to send you a separate letter outlining some suggestions about how you might be able to estimate flows from Devil Creek which are commingled with Deadwood Creek flows in the Crosscut Canal.

Sincerely,



Tim Luke
Water Allocations

cc: Justin Seamons
Cedar Mesa Reservoir & Canal Co.
Western Region
Southern Region