



State of Idaho
DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

File WTD 43-13

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 21, 2000

Dave Sundberg
Box 1
Malta, ID 83342

RECEIVED

DEC 22 2000

Department of Water Resources

RE: Reed Springs and Steed Wells

Dear Dave:

I have reviewed your recent letter received in our office December 1st. Your letter outlines observations you have made and the problems you have encountered in administering Raft River rights and particularly the water associated with Reed Springs. You request that certain actions be taken before next season so that Reed Springs can be properly administered.

I concur that some corrective measures need to be taken. As you know I wrote a letter October 9th, 1997 which proposed that the various parties which impact Reed Springs get together and come up with an agreement on how to mitigate the ground water affect on Reed Springs. On July 26th I also provided you with written direction regarding these matters. (Copies of letters enclosed) To date I know of no specific agreement between parties.

It appears, based on your recent letter, that regulation of these matters needs improved for many reasons.

It is prudent and reasonable at this time that an in-line measuring device with totalizing meter be installed on the pipeline from the Steed wells which can measure and total the discharge of ground water into the spring. Additionally the measuring device below the pond must be kept in functioning order. The installation and maintenance of these devices are the responsibility of Steed's. These devices are required to allow better administration of the mitigation to Reed Spring as a result of use of license 43-07086. These devices must be in place by February 1, 2001.

Pursuant to 42-701 of the IDAHO CODE and by copy of this letter to Gary Steed &/or RHL Financial Inc., this letter is intended to serve as the 10 day notice to install and maintain the above described measuring devices. Please note that 42-701 of the Idaho Code covers issues involved with installation and maintenance of measuring devices and reads in pertinent part:

HEADGATES AND MEASURING DEVICES 42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS AND MEASURING DEVICES BY WATER APPROPRIATORS -- PROCEDURE UPON FAILURE TO INSTALL AND MAINTAIN -- MEASURING AND REPORTING OF DIVERSIONS -- PENALTY FOR FAILURE TO COMPLY -- ENFORCEMENT PROCEDURE -- REPORT FILING FEE. (1)

The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources. (2) If an appropriator determines that installation and maintenance of a measuring device required by the director would be burdensome for his diversion, the appropriator may, upon approval of the director, execute an agreement with the director and submit to the director such information and technical data concerning the diversion and pumping facilities as the director determines necessary to establish the relationship of power usage to water withdrawal by any pump used to divert public water. (3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices. (4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

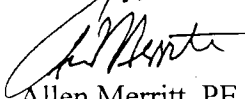
*Please note that measuring devices may ultimately be required on all wells in the area by all users or arrangements made to monitor ground water use from use of power records.

Regarding the maintenance of measuring devices between Reed Spring and the pond I believe they have outlived their purpose, which was to determine if there was a large loss in the pond. The department has determined that there was no measurable loss and the requirement for this device is going to be removed from license 43-07322 for the pond.

Regarding the matter of assessing the Steed's for watermaster work, I recommend that it be based on the amount of water delivered from the wells into Reed Spring for mitigation.

If you, Mr. Steed or others have questions or would like to jointly meet to discuss these matters further, I will be available in mid-January to schedule such a meeting.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Gary Steed/ RHL Financial Inc.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 9, 1997

Jay Harper
HC 72 Box 2156
Malta, ID 83342

Gary Steed
PO Box 127
Almo, ID 83312

Bruce &/or Kent Durfee
PO Box 187
Almo, ID 83312

Dave Sundberg
PO Box 1
Malta, ID 83342

RE: Groundwater affects on Reed Springs

Gentlemen:

As you know it has been noted in the past that groundwater pumping in the vicinity of Reed Springs affects the flow of the springs which may affect the delivery of senior rights on Raft River. In recognition of this potential injury to senior rights it is my understanding the groundwater pumpers (Erickson & Durfee) have in the past mitigated their groundwater use by replacing water back into Reed Springs &/or Raft River. As you may know the last groundwater right issued in this area (License 43-07086 to Erickson) is conditioned as follows:

- Flows of Reed Springs, depleted by pumpage of groundwater under this license, shall be replaced to protect prior water rights.
- Use of this water right will be regulated by the watermaster of State Water District 43-B.

Recently Mr. Harper representing the water district requested that the department look into this matter and give further direction to the watermaster as to how to regulate this/these rights. In light of the vague condition on 43-07086, past non-formal mitigation, potential drought related affects on the spring, potential affects of other land use changes in the basin on the spring and the recent ownership change from Erickson to Steed; it is appropriate to formalize a mitigation plan for this situation.

I asked Glen Saxton to review the records available in the department's state office (copy of my 9/11/1997 memo to Saxton, copy enclosed) to help determine the basis of the condition on license 43-07086. His report is contained in memorandum dated 9/16/1997 (copy enclosed). I also talked with Mr. Erickson who indicated that in the past he has provided 2/3 and Durfee has provided 1/3 of the mitigation for pumping the wells. I asked that he write a letter describing the mitigation in detail but he has not yet responded.

The purpose of this letter is to inform the known parties of what has recently been looked at by the department and to see if this matter can be resolved by a written agreement. The issues which need agreement appear to be:

-How much of the replacement water should be provided by each groundwater pumper?

*(Steed 2/3 & Durfee 1/3)**

-What will the basis of the replacement amount be?
*((1/2 of the difference between 120" and the flow of the Reed Spring measured in the spring before groundwater pumping starts) plus the amount of flow of the Reed Spring measured in the spring before groundwater pumping starts)... for example if 80" was measured in the spring then 100" would be mitigated.**

**For illustrative purposes only; the basis described is a compromise between what I presently understand the parties positions may be. This could be described as a splitting the baby scenario. All of this would be subject to negotiation by the parties.*

-Other issues important to parties.

Please review this matter and advise me if an agreement can be worked out before the end of this year; hopefully something can be finalized be for next irrigation season. If an agreement can be worked out, I would propose that it would be incorporated into a future preliminary order to be issued by the department which would direct mitigation for use of the Steed and Durfee groundwater rights. If an agreement cannot be worked out then the department may consider further action. If you have questions about this matter please feel free to contact me at this office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton



State of Idaho
DEPARTMENT OF WATER RESOURCES
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SOUTHERN REGION

Post-it® Fax Note 7671		Date	# of pages ▶ 9
To	Tim Luke	From	Allen Malta
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

ORNE

ER

DIRECTOR

July 26, 2000

Dave Sunberg, Watermaster District 43-B
 PO Box 1
 Malta, ID 83342

RE: Roscoe Ward Call

Dear Dave:

Our office has received the attached letter from Roscoe Ward requesting assistance in getting his water delivered on Raft River. Delivery of the Ward water may hinge on regulation of groundwater required to be injected into Reed Springs by Steed* under license 43-07086.

*Our office has recently processed a change of ownership from Steed to RHL Financial Inc., 2325-A Renaissance Drive, Las Vegas, NV 89119. I do not know who currently operates the farm but earlier this summer I visited the farm and Steeds resided at the farm at that time.

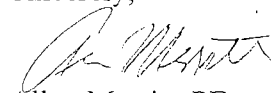
You are authorized to regulate flows from groundwater through a pipeline above the spring to inject water into the spring to replace water depleted in Reed Springs due to pumpage of groundwater. As you know this matter has been an issue for several years. (Reference attached letters and memos) From past correspondence it can be seen efforts to resolve this matter by agreement have been made but to my knowledge no formal agreement has been made.

To respond to delivery calls on Raft River below Reed Springs you are directed to:

- Regulate the pipeline from wells operated by RHL (Steed) to replace water depleted due to pumpage of groundwater. Water from the pipeline is to be injected into the head of the spring in such an amount as you determine to be reasonable to augment the current spring flow. You may lock the valve on the pipeline if you deem it necessary.
- To assist in your regulation the operator of the RHL (Steed) property is required to maintain to the department's and your satisfaction the weir below the small reservoir on Reed Springs. The weir is to be use by you to regulate the augmented flows. Absent an agreement, I recommend that the flow you observed at Reed Springs this spring prior to pumping of groundwater be considered in your determination of what is reasonable.
- If it is determined that augmented flows from the spring do not directly flow to downstream users (the flow sinks before diversion), then flow augmentation may cease for the season.

Please immediately look into this matter to see if Mr. Ward can be delivered water. If you need further direction or see the need for a meeting between parties I will be available after Monday of next week for a site visit.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Gary Steed, PO Box 127, Almo ID 83312
Roscoe Ward, PO Box 108, Almo ID 83312
RHL Financial Inc