



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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43-C

SOUTHERN REGION

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June 10, 2002

KIM THORNTON  
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RE: DELIVERY PROBLEMS ON SHARED DITCH

Dear Kim

Enclosed are 4 rights that are under Dallon's name. Three are from Cassia Creek and are for different priority dates and the fourth is from groundwater.

The ambiguity that you received from Tommy concerning Dallon's diversion rate may have come from looking at the Cassia Creek rights by priority date. When totaling those rights you get 0.35 cfs but right 43-12973 is for 0.17 cfs and has an 1894 priority date and is generally considered a 'high water right'.

In reviewing the Idaho Code concerning lateral ditch users I noted that one of the requirements is that 3 or more users must share the ditch. If Randy Briggs shares the diversion, then the lateral ditch user would apply.

TITLE 42  
IRRIGATION AND DRAINAGE -- WATER  
RIGHTS AND RECLAMATION  
CHAPTER 13  
LATERAL DITCH WATER USERS'  
ASSOCIATIONS

42-1301. ORGANIZATION -- OFFICERS -- RULES. Where three (3) or more parties take water from same canal or reservoir at the same point to be conveyed to their respective premises for any distance through a lateral or distributing ditch or laterals or distributing ditches such parties shall constitute a water users' association known as "Water Users' Association of Lateral or Laterals." Such water users' association may meet and organize at any time after thirty (30) days after this chapter shall take effect, and shall meet annually thereafter between January first and the last Monday in March of each year, at the call of the secretary of such association, said secretary to give ten (10) days' notice by mail of such annual meeting; provided that if for any reason the secretary should fail to call a meeting, then the annual meeting of such association shall be held on the last Monday in March of each year. At such annual meetings each water user shall be entitled to one (1) vote in person, for each inch and a fractional vote for each fraction of an inch of water which such water user is entitled to receive from such laterals, and a corporation shall vote by one (1) of its officers designated by it. Such association shall organize by the election of a chairman, vice-chairman and a secretary-treasurer, which officers shall also constitute the board of directors of such association, and shall hold office for one (1) year and until their successors are elected. Such association at the annual meeting shall also elect a manager of said lateral or laterals to be known as "lateral manager" for the succeeding season and shall fix the compensation of said manager, and of all officers. Such association may adopt such rules and regulations for the management of said lateral

or laterals or distributing ditch or ditches and the delivery of water there from as they deem best, and may, by majority vote, if it be deemed for the best interests of the association, combine one or more laterals and abandon laterals not in use, and do any and all things not in conflict with the provisions of this chapter or the laws of this state wherein the best interests of the association will be furthered.

<http://www3.state.id.us/idstat/TOC/42013KTOC.html> The web site to the left is the location where you can find additional information concerning the lateral ditch manager. Idaho codes 42-1301 through 42-1309 are applicable to your circumstances.

Summary of choices;

1. Work informally with the other parties and reach an agreement satisfactory to all parties.
2. If three users are part of the system, then form a lateral ditch association and have the water delivered by a ditch manager.
3. Develop a separate delivery system at or near the current delivery system.
4. Develop a diversion and delivery system at a different location on Cassia Creek. (This alternative would likely require a transfer before commencing the work.)

If you have further questions please contact this office.

Sincerely

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enclosures