



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 1, 2004

Randy McAfee
3721 Antelope Rd
Moore, ID 83255

Re: Antelope Creek Issues; Your Correspondence dated October, 5, 7, and 18, 2004

Dear Mr. McAfee,

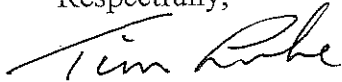
The Department is in receipt of your three separate letters dated October 5, 7, and 18, 2004, regarding water regulation and other water related issues on Antelope Creek. Prior to receiving these letters, the Department received several phone calls from you alleging certain water delivery problems on the creek and asking us to make a field inspection of diversions and conditions on the creek. Some of the issues raised in your calls and correspondence, such as regulation of rights, water measurement, and control of beaver dams have been discussed in recent annual water district meetings or were the subject of other calls or inquiries from concerned water users in the area over the past several years. As a result of these concerns, Steve Burrell of IDWR made a visit to Antelope Creek on October 6, 2004, to inspect diversions and conditions on the creek with you, Preston Bell, and Bob Duke.

Your letter dated October 7, 2004, requests that the Department remove Bob Duke as the watermaster of Water District 34. Section 42-605(9), Idaho Code provides that the Director of IDWR may remove a watermaster whenever such watermaster fails to perform the watermaster's duty, upon a complaint made to the Director in writing by at least one valid water right holder within the water district, and upon both an investigation and hearing by the Director. IDWR is obligated to investigate this matter in accordance with the law. As part of this investigation, IDWR has asked Mr. Duke to respond to the allegations and issues identified in your three letters by December 1, 2004. I believe the field visit by IDWR on October 6, 2004 may also constitute part of IDWR's investigation of your request for watermaster removal. These actions alone do not necessarily limit IDWR's investigation of this matter. IDWR will delay any decision to schedule a hearing on this matter until after Mr. Duke responds to your letters and/or further investigation by IDWR.

In response to other issues raised in your correspondence, IDWR plans send an order requiring installation of measuring devices and headgates to all water right holders with diversions on Antelope Creek and tributaries. Several items identified in your letters were not fully investigated due to lack of time. IDWR will delay further investigation of these items until next year pending availability of time and resources.

Please contact Tim Luke or Steve Burrell at the office listed above if you have questions regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Tim Luke". The signature is fluid and cursive, with the first name "Tim" being more prominent than the last name "Luke".

Tim Luke
Water Distribution Section

cc: Gary Spackman, IDWR
Bob Duke, Water District 34 Watermaster
IDWR Eastern Region

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